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ABSTRACT

This resource guide is designed to assist practitioners in implementing the 1997 amendments to the Individuals with Disabilities Education Act (IDEA) as they make decisions regarding the education placements of students with disabilities who exhibit dangerous behaviors. In addition, suggestions are included to assist schools in developing plans to create safe and secure environments for all students. Specific sections address: (1) steps to developing a schoolwide plan, including establishing a team, conducting a safety needs assessment, reviewing existing policies and procedures, identifying goals and developing, evaluating and refining the plan; (2) IDEA amendments regulating short- and long-term suspension, expulsion, cessation of services, discipline for students not yet eligible for special education, and notification to law enforcement officials; (3) the role of the school Individualized Education Programs (IEP) team, functional behavioral assessments, manifestation determinations, behavior intervention planning, and Interim Alternative Educational Setting requirements; (4) due process procedures in IDEA; (5) required data collection and confidentiality in electronic records transmission; and (6) professional development/training best practice recommendations. A glossary of related terms is included. Appendices contain a safe school plan format, referral forms, behavior management forms, decision making reference materials, and an IDEA discipline process flowchart and narrative guide. (CR)

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Safe Schools - Safe Students:

Guidelines for Implementing Discipline Procedures Under The New Individuals with Disabilities Education Act (IDEA)

A Resource Guide for School Boards, Superintendents, Directors, Principals, Teachers, Support Staff, and Parents

Second Edition of Original 1996 Resource Guide: Addressing Students With Disabilities Who May Exhibit Violent, Aggressive and/or Dangerous Behaviors

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NOTE: This is <u>not</u> a legal document and should not be interpreted or used as such. Rather, it is a compilation of information and suggested best practices collected from a variety of sources we hope will be helpful. It should not replace competent legal counsel school districts would otherwise access.

Letter to Colleagues
Fall 1997

Dear Colleagues,

The Council of Administrators of Special Education (CASE) is pleased to present this new and improved resource guide to assist educators in providing for safe and secure schools and guidelines for implementing discipline procedures under the 1997 Amendments to the Individuals with Disabilities Education Act (IDEA).

This resource guide reflects CASE's recognition of the need for safe and secure learning environments as central to a school's ability to effectively educate all of its students. The importance of a safe and secure learning environment has been well defined in the literature on school effectiveness, implanted in America's Goals 2000, the Improving America's Schools Act, and the Safe Schools Act of 1994. The 1997 reauthorization of IDEA further redefines the disciplinary actions that must be taken when managing students whose serious problem behaviors put them or their school's safety at risk. Schools must continually equip themselves with the strategies and tools to effectively intervene with students exhibiting dangerous behaviors who may or may not be eligible for special education.

CASE has revised and updated this resource guide to assist practitioners in implementing the 1997 Amendments to IDEA as they make decisions regarding the education placements of students with disabilities who exhibit dangerous behaviors. In addition, the suggestions contained herein can help schools to develop safe school plans to help create safe and secure environments for all students and implement strategies to help ensure that students educational needs are at the center of the decision making process.

We hope this new revision will be helpful to you in your work on behalf of all students, including those with disabilities.

Sincerely,

Pat Guthrie

Pat Guthrie, President CASE

TABLE OF CONTENTS

Section I. Creating Safe, Secure, And Nurturing Learning Environments 5

- A. Safer School Planning
- B. Steps To Develop A Schoolwide Plan
  1. Establish A Team
  2. Conduct A Safety Needs Assessment
  3. Review Existing Policies, Procedures, etc.
  4. Identify Goals And Develop The Plan
  5. Evaluate And Refine

Section II. New Discipline Procedures For Students With Disabilities 8

- A. Discipline Using Suspension Or Expulsion
- B. Suspension
  1. Definition
  2. General Procedural Requirements
  3. Temporary Suspension Of Students With Disabilities
  4. Cumulative Suspensions For Students With Disabilities
  5. Long Term Suspension For Students With Disabilities
- C. Cessation Of Services, Interim Alternative Educational Settings And Changes In Placement
- D. Expulsion For Students With Disabilities
- E. Discipline For Students Not Yet Eligible for Special Education
- F. Notification To Law Enforcement Officials

Section III. The School IEP Team In The Discipline Process 13

- A. Role Of The School IEP Team
- B. Evaluation (within 10 days)
  1. Determination Of Appropriateness Of Current Assessment
  2. Functional Behavior Assessment
- C. Decision-Making
  1. Manifestation Determination
  2. No Manifestation
  3. Manifestation Summary
- D. Program Planning
  1. Behavior Intervention Planning - A Preventive Approach
  2. Behavior Intervention Planning Components
  3. Behavior Management Plans
  4. Implementation Of Interventions
  5. Evaluation Of Restrictive Interventions
  6. Generalization And Maintenance
  7. Behavior Management Planning: Sample Formats

TABLE OF CONTENTS

E. Placement
   1. Interim Alternative Educational Setting (IAES) by School Personnel
   2. Interim Alternative Educational Setting by Hearing Officer
   3. IAES Requirements
   4. Student Placement During Appeal
   5. Interim Alternative Education Options
   6. Access and Participation In The General Education Curriculum

F. Discipline Process Flowchart

Section IV. Due Process Procedural 1997 Amendments To IDEA 28
- A. Notification To Parents
- B. Stay Put Provisions
- C. Mediation
- D. Parent Appeal Of Manifestation Determination Or Placement Decision
- E. Hearing Process
- F. Required Elements For "Dangerousness"
- G. Attorney's Fees

Section V. Records 32
- A. Required Data Collection
- B. Confidentiality In Electronic Records Transmission

Section VI. Professional Development/Training Best Practice Recommendations 33

Section VII. Definition Of Terms 35

Section VIII. Appendices 37
- A. Safe School Plan Format And Prevention Planning
- B. Interim Alternative Education Setting Referral Form
- C. Functional Behavior Analysis Form
- D. Behavioral Management Plan Summary Forms
- E. Manifestation Determination: IEP Considerations/Support Materials
- F. Decision Making Reference Materials
- G. Confidential Records Transmission Sample Fax Forms
- H. Student Success Teams Support Materials
- I. Position Statements
- J. Suspension And Expulsion Trend Data
- K. Initial Disciplinary Guidance Memo Dated 9/19/97 From USDE
- L. IDEA Discipline Process Flowchart And Narrative Guide

SECTION I.

CREATING SAFE, SECURE, AND NURTURING LEARNING ENVIRONMENTS FOR ALL STUDENTS

Every school can be safe, secure, and nurturing for all students, including those with disabilities when steps are taken to ensure that this will happen. A Safe Schools Plan can assist schools in developing a climate that promotes the success and the development of all students. The needs of students with behavioral and emotional problems can be better met when the entire school has engaged in a broad-based, comprehensive, systematic process to implement and sustain a safe climate, one that provides a preventative approach to undesirable or violent behavior, provides effective interventions for students, training for staff, and involves parents and community agencies in the process.

Several states have recognized the need for safe schools planning and to this end have completed policy framework to put safe schools planning into place. California now requires schools to develop school site discipline plans with regular review in order to provide safe and orderly environments (CA Education Code 35291.5). In 1994, Illinois PA 87-1103 led to the establishment of a set of guidelines regarding behavioral interventions for students with disabilities which districts must use in establishing their own local policies. South Carolina was the first state to mandate safe school planning in 1992.

Whatever the impetus for safe schools planning, the social and cultural backgrounds of the students and staff can have a powerful impact on the effectiveness of the plan. This plan ultimately can create a climate that values diversity, is preventive in design, and provides alternatives and options for students and staff that reduce violence and facilitate learning.

A. Safe School Planning

CASE believes that safe school planning benefits everyone including students, with and without disabilities, school staff, and the community at large. Schools with options for diverse learners resist the practice of inappropriate or unnecessary referrals to special education. Given the increasing concern about violent behavior in our society and our limited or ineffective traditional responses for containing such violence, educators can pro-actively move the total school toward a more safe and secure place for learning using a safe schools planning process.

Safe schools planning can harness the energy of staff and the community to facilitate increased levels of integration and the inclusion of students with severe behavioral/emotional problems while simultaneously assisting schools in developing a climate that promotes the success and the development of *all* students. When the

entire school has engaged in a broad-based, comprehensive, and systematic process to implement and sustain a safe climate with a preventative approach to undesirable or violent behavior, effective interventions for students are created, training for staff becomes a reality, staff become more sensitive to, knowledgeable about and accepting of the social and cultural backgrounds of youth. Also, parents and community agencies help to create and support a safe, secure, and nurturing environment that can extend beyond the school walls.

Much more can and must be done to create safe school environments. As our schools and the students and staff within them have changed, our approaches for assurance of a safe learning climate must continue to be improved (for sample plan see Appendix A).

B. Steps to Develop a Plan for Safer Schools

Step 1. Establish a Team

Planning for safer schools means planning for better schools. Safe schools planning involves several components beginning with the establishment of a planning team. The team should be broad-based and involve students, teachers, support staff, parents, administrators, board members, and community/agency representatives. The primary responsibility of the team is to develop and implement a safe schools plan that meets the safety needs of the school and community and addresses both the preventative and intervention aspects of violence reduction and behavioral management.

Step 2. Conduct a Safety Needs Assessment

Once a broad based team is established, a school safety needs assessment of local conditions is necessary to determine the extent to which violence or anti-social behavior is occurring and what may be causing it.

A needs assessment can determine the extent to which safety is a concern and assist in identifying the issues to be addressed in a school plan. A needs assessment may include:

- Data on incidents of violence
- An analysis of school suspension and expulsion data and trends
- A staff, student, and community survey on safety issues and needs
- Focus groups with input from parents, teachers, law enforcement agencies and community leaders
- A review of school discipline policy and procedures

Step 3. Review Existing Policies, Procedures, and Practices

Step three includes a written comprehensive review and assessment of existing policies, procedures, and practices at both the school building and the district level.

including a resource inventory. The presence of strong student codes of conduct, dress codes, behavior guidelines, curricular programs, school board policies, administrative regulations, staff training, parent involvement and training, crisis response plan, security and supervision, and cultural and social awareness can guide safe school planning teams in appropriate directions. Note: Special education support personnel and classroom teachers can be of great assistance in assessing and reviewing behavior management issues.

Once the team has conducted a needs assessment and completed a comprehensive review of existing policies, procedures, and practices, an analysis of needs will allow for a review of the strengths and weaknesses in the existing environment, availability of resources, and gaps in programs and policies to be addressed to support a positive school climate. The team can include prevention and intervention strategies recommended by parents, staff, students and/or community.

Step 4. Identify Goals and Develop the Plan

The fourth step involves the development of an implementation plan that identifies through consensus the goals to be reached, barriers to be overcome, technical assistance and resources needed, a time frame, accountability and monitoring. The development of the implementation plan commits those involved and builds ownership for success. Once the team identifies the goals to be accomplished, the questions of who, when, and where need to be answered. Implementation plans should address goals and objectives that are SMART:

Specific	-	goals are specific enough to avoid ambiguity
Measurable	-	goals are measurable enough to gauge progress and reinforce success
Accountable	-	goals are accountable to all participants
Realistic	-	goals are realistic given the available fiscal and human resources
Time-Framed	-	goals are time-framed enough so that all participants in the planning process know when they can expect to see the plan come to life

Step 5. Evaluate and Refine

The extent to which a plan is successful can best be determined through continual evaluation. An implementation plan that uses the criteria such as SMART facilitates accountability, commits participants to action, and reinforces the success that is possible when people work together. Reexamining and contrasting needs assessment data findings with the district data from these areas can provide evidence of effectiveness in school safety.

SECTION II.

NEW DISCIPLINE PROCEDURES FOR STUDENTS WITH DISABILITIES

A. Discipline with Suspension or Expulsion

School personnel are required to be knowledgeable of statutory regulations relating to suspensions and expulsions of students with disabilities. Although the IDEA, Section 504, and their implementing regulations are reasonably detailed, specific guidelines are often lacking for the suspension or expulsion of students with disabilities. As a result, litigation has entangled school personnel who attempt to balance the special education needs and rights of students with disabilities with the school's need to provide a safe learning environment. The threat of litigation has been problematic for school personnel attempting to enforce traditional codes of student conduct in the absence of current knowledge of statutory regulations, particularly given the 1997 Amendments to IDEA. (References: 20 U.S.C.A. Section 1401 et Sec (West Supp. 1992), 29 U.S.C.A. Section 794 (West Supp. 1992), 34 C.F.R. Part 104 (1981), 34 C.F.R. Part 300 et Sec.)

B. Suspension

1. Definition

A suspension is generally defined as a short or long term cessation of educational services. State statutes regulate the allowable length of the suspension, the reasons for which a suspension can be ordered, and the procedure school personnel must follow in implementing a suspension.

2. General Procedural Requirements

School personnel are required to avail a student with disabilities basic due process rights as per all students prior to suspension.,

a. The student must be advised of the **reasons** for the proposed suspension and given an **opportunity to explain** their version of the incident prompting suspension.
b. The parent or guardian of a suspended minor should be given **prompt notice** of the suspension and the reason for it.
c. The suspended student, parent or guardian may **appeal** the suspension to another school official.

3. Temporary Suspension of Students With Disabilities

Under normal circumstances, school personnel may temporarily (short term)

suspend a disabled student using the same procedures in place for nondisabled students up to a maximum of 10 school days per school year. Courts have determined that the school's need to remove a disruptive student from the school environment (for ten days or less) outweighs the disabled student's entitlement to a free appropriate public education. Since the duration of the suspension is limited, it is normally not of a significant length to be considered a change in placement.

References: Honig v. Doe, 484 U.S. 305, 108 S. Ct. 592 (1988), 1987-88 EHLR 559:231, aff'g as modified Doe v. Maher, 793 F.2d 1470, 1985-86 EHLR 557-353 (9th Cir. 1986).

4. Cumulative Suspensions of Students With Disabilities

The circumstances of a series of suspensions for students with disabilities which cumulatively approach ten days should be reviewed to determine whether or not a change in placement evaluation is warranted. The IEP and accommodations should be reviewed as appropriate. The Office of Civil Rights (OCR) outlines the following factors to be considered in determining whether or not a series of suspensions constitute a change in placement under Section 504 or IDEA, including:

a. the **length** of each suspension,
b. the **proximity** of the suspensions to one another; and
c. the **total amount of time** the student was excluded from the classroom.

Under the 1997 Amendments to IDEA, that **total amount of time cannot exceed ten days in a given school year**. Additional references include: 14 EHLR 307:06 (OCR 1988), St. Mary's Area School District, 16 EHLR 1156 (OCR 1990), 34 C.F.R. Section 104.35 (a).

5. Long Term Suspension For Students With Disabilities

Long term suspension is generally defined as the termination of educational services for more than ten school days or for the remainder of the school semester or year. The complete termination or cessation of educational services is not an option for students with disabilities under the 1997 Amendments to IDEA. However, there are provisions for a change in placement but under no circumstances is cessation of services (i.e., FAPE) permitted (including transportation or other related services, for students with disabilities). Long term suspensions of students with disabilities are only permitted in accordance with appropriate procedures such as those in Section III of this manual.

C. Cessation of Services, Interim Alternative Educational Settings, and Changes in Placement

The 1997 Amendments to IDEA, effective upon enactment and as a practical matter with the grant period beginning July 1, 1997, do not allow for the cessation of special education services, even to dangerous and chronically disruptive students who violate district codes of conduct for more than ten days. It does give school personnel more authority to discipline such students by expanding the provision that allows maximum 45-day alternative placements for students who bring firearms or other weapons and illegal drugs to school.

School personnel may order a change in placement:

1) to an appropriate Interim Alternative Educational Setting (IAES), another setting, or suspension, for not more than 10 school days; and
2) to appropriate IAES for not more than 45 days if--
    a) student brings weapon to school or school function; or
    b) student possesses/uses/sells illegal drugs

As previously noted, school personnel will still be able to suspend a special education student who violates a discipline policy for up to 10 consecutive school days in a given school year, in accordance with state and local policy. As in the past however, suspension for longer than 10 days will constitute a change in placement, and procedures for a change in placement must be followed.

Before or not later than 10 days after the disciplinary action, if the Local Education Agency (LEA) did not conduct a functional behavioral assessment and implement a behavioral intervention plan prior to behavior resulting in the suspension, the LEA shall conduct an IEP meeting to develop an assessment plan or if the plan already exists, the IEP team shall review and revise as necessary.

A hearing officer may order a change in placement to an IAES for not more than 45 days for very dangerous behavior, as well as weapons or drugs as defined above, if the hearing officer determines that the LEA has demonstrated by substantial evidence that maintaining the current placement is substantially likely to result in injury to the student or others; considers the appropriateness of the current placement; considers whether LEA has made reasonable efforts to minimize risk of harm in current placements; and determines that the IAES meets requirements delineated in law.

Note: A judge or the courts continue to have authority to remove a student from educational settings and services in accordance with state and federal laws.

However, before a special education student can be excluded from school for more than 10 school days, an IEP team meeting MUST take place. There are two major decisions the team must make:

1) whether the student's misbehavior is a manifestation of his or her disability, and

2) whether the student's existing program was appropriate to his or her unique needs, and implemented as designed.

If the IEP team concludes that the misbehavior is a manifestation of the student's disability and/or that *the student's special education program is not appropriate, then long-term suspension or expulsion must not occur.* Instead, the student's individualized education plan must be revised and the student provided with an appropriate special education program and placement.

If the IEP team concludes that the student's disability did not in any way relate to the student's misbehavior nor was the student's IEP inadequate in any way, the long-term exclusion process may go forward using regular school district procedures and practices. However, **special educational services must continue to be provided in whatever Interim Alternative Educational Setting is deemed appropriate.** (Appendix B)

D. Expulsion For Students With Disabilities

An expulsion is generally defined as a complete termination of educational services for more than ten days. The complete termination or cessation of educational services is not an option for students with disabilities under the 1997 Amendments to IDEA. However, there are provisions for a change in placement but under no circumstances is cessation of services (i.e., FAPE), including transportation or other related services, for students with disabilities.

E. Discipline of Students Not Yet Eligible For Special Education

A student who has not been determined to be eligible for special education and related services and who has engaged in behavior that violated the code of conduct of the LEA, is protected by all of the procedural safeguards under Part B of IDEA, *if* the LEA had knowledge that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred. An LEA shall be deemed to have had knowledge that a student has a disability if the parents of the student have expressed concern in writing (unless the parents are illiterate or have a disability that prevents compliance with the requirements of the clause) to personnel of the appropriate educational agency that the student needs special education and related services; the behavior or performance of the student demonstrates the need for such services; the parent of the student has requested an evaluation of the student under section 614, or the student's teacher, or other LEA personnel, has expressed concern about the behavior or performance to the student to the director of special education or to other agency personnel.

If the LEA does not have knowledge, or could not reasonably have known, that a student is a student with a disability prior to taking disciplinary measures against the student, the student may be subjected to the same disciplinary measures applied to students without disabilities who engaged in comparable behaviors, unless it is otherwise determined that the student is a student with disabilities.

If a request is made for an evaluation of a student during the time period in which the student is subject to disciplinary measures, the evaluation shall be conducted in an expedited manner. If the student is determined to be a student with a disability, taking into consideration information from the evaluation conducted by the agency and information provided by the parents, the agency shall provide special education and related services except that the student shall remain in the educational placement determined by school authorities.

F. Notification to Law Enforcement Officials

Nothing in the 1997 Amendments to IDEA prohibits an agency from reporting criminal acts that are committed by a student with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a student with a disability. An agency reporting a crime committed by a student with a disability shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom it reports the crime.

SECTION III.

THE SCHOOL IEP TEAM IN THE DISCIPLINE PROCESS

A. ROLE OF THE IEP TEAM

There are several functions of the school IEP team when addressing the needs of a student with a disability who has engaged in violent, dangerous, or other behaviors which violate a district code of conduct. The most important function is to follow a prescribed plan of action to prevent the behavior from occurring or to protect the student and others if it does occur. The IEP team is responsible for determining the appropriateness of current evaluations or updated evaluations, the development of behavior intervention plans, and conducting the manifestation determination prior to disciplinary action. The IEP team includes the parent and all school personnel knowledgeable about the student and may convene at the local school or designated district office, depending on discipline procedures specified by each school district.

B. EVALUATION

1. Determination of Appropriateness of Current Assessment

Whenever a student exhibits behavior that warrants suspension or expulsion, the school team should immediately convene to consider whether an updated evaluation is necessary. The IDEA requires a comprehensive evaluation when a student is first referred for special education and a review at least every three years after that. The purpose is to determine initial or continued eligibility for special education services and to generate information about the student that will be used to develop an IEP that is reasonably calculated to confer benefit. A most important role of the school team is to make sure that all evaluation and IEP components are thorough enough to clearly determine the likelihood of certain behaviors as a direct result of their disability. There must be sound evaluative information indicating the student's current behavioral status and potential for behavioral problems. This should also include the need for specialized instruction and any necessary services to ensure the team develops an IEP that adequately addresses not only the academic but also the behavioral needs of the student. If the evaluation is thorough and the IEP well developed, appropriate program decisions can be made and the program will be well implemented by the school district.

One of the regulations within the IDEA that is not used as often as it should be is the section requiring that an evaluation be conducted "more frequently if conditions warrant, or if the child's parent or teacher requests an evaluation" (34 C.F.R. Sec 300.534(b)). When a student with a disability who has the potential for severe behavior but who has been functioning appropriately in school shows a clearly negative behavioral change, re-evaluation should be conducted. Often, this prompt

intervention can prevent violent behavior from occurring by helping the team make appropriate adjustments in the student's IEP before the behavior gets to that stage.

The parent/caregiver has the right to request that a comprehensive evaluation be conducted prior to the final decision for expulsion and will often do so. This includes parents/caregivers of students not yet eligible for special education. School personnel may also request a comprehensive evaluation if they or the parent believe this will assist the school team in making its determination about whether or not the presenting behavior is a manifestation of the disability.

2. Functional Behavior Assessment

If the LEA did not conduct a **functional behavior assessment** and implement a **behavioral intervention plan** before the behavior that resulted in the suspension, the LEA must convene an IEP meeting to develop an assessment plan to address the behavior either before or **not later than 10 days** after taking a disciplinary action**.** If the student already has a behavior intervention plan, the IEP team shall review the plan and modify it, as necessary, to address the behavior.

a) Elements

Each student receiving special education services who requires the use of a restrictive behavioral intervention should have a written behavioral management plan developed by the IEP team and included in the student's IEP. This plan should include the following:

1. A functional analysis of the target behavior of concern. Such an analysis is critical to the understanding of the structure and function of the behavior and the development or strengthening of more appropriate alternative behaviors.

   In conducting a functional analysis, a wide array of procedures should be used to gain a valid understanding of the target behavior. This may include direct observation of the student across times and settings, interviews with the student as well as his/her teachers and parents, systematic manipulation of the student's environment, and informal measures such as checklists, self-reports, or informal rating scales.

   A functional analysis shall include the following components:
   a. a detailed description of the target behavior of concern including data on the intensity, frequency and duration of the behavior;

   b. a description of the settings in which the behavior occurs, an analysis of antecedents to and consequences of the behavior;

c. a description of other environmental variables that may affect the behavior (e.g., teacher approach, medication, medical conditions, sleep, diet, schedule, social factors);

d. an examination and review of the functional or practical intent of the behavior; what it is attempting to communicate;

e. a description of environmental modifications made to change the target behavior;

f. an identification of appropriate behaviors that could serve as functional alternatives to the target behavior.

NOTE: A functional analysis does not constitute a comprehensive special education evaluation. If, as a result of the functional analysis, the student's disability classification or eligibility for special education services is questioned, a comprehensive special education evaluation should be conducted. (See Appendix C for sample Functional Analysis Summary Form)

2. A description of previous interventions attempted.

3. A detailed description of the instructional and behavioral intervention(s) to develop or strengthen alternative, more appropriate, behaviors (e.g., personnel involved in the intervention, all procedures used, data collection and monitoring procedures).

4. A detailed description of any restrictive intervention procedures to be used (e.g., personnel involved in the intervention, all procedures used, data collection and monitoring procedures).

5. A list of measurable behavior changes expected and method(s) of evaluation.

6. A schedule for review of intervention effectiveness.

7. A list of provisions for coordinating with the home.

The behavioral management plan is a critical element of any successful behavioral intervention. Districts are urged to strongly encourage all personnel who use behavioral interventions to routinely employ these steps when planning interventions. District training efforts should be directed toward this goal. A sample behavioral management plan summary form is provided in Appendix D.

b) Selection of Strategies

The selection of an intervention for use with an individual student or group of students shall be based on information derived from the functional analysis. Before an intervention is selected, a continuum of possible interventions designed to produce the desired behavioral change(s) should be considered. The least restrictive intervention that is reasonably calculated to produce the desired effect should be selected for implementation. **When evaluating an intervention for possible use, the impact of an intervention on the student's physical freedom, social interaction, personal dignity, and privacy should be carefully considered.** The following additional issues should be considered when evaluating a potential intervention:

1. Speed and degree of effects. How rapidly and to what extent will the intervention impact the presenting problem(s)?
2. Durability. Is the influence exerted by the intervention likely to be long-lasting or permanent?
3. Generalization. Is the influence exerted by the intervention likely to extend to a range of settings?
4. Side effects. What negative side effects are likely to occur as a result of the intervention?
5. Empirical/clinical validity. Does the intervention have a reasonable scientific and clinical basis for use in attempting to influence this behavior for this person?
6. Social acceptability. How easily can the intervention be implemented without stigmatizing or otherwise devaluing the person experiencing the intervention?

See Appendix D for a designation of behavioral interventions by level of restrictiveness and guidelines for implementation of behavioral interventions.

C. DECISION-MAKING

1. Manifestation Determination

In order for school district special education teams to protect the civil rights of students with disabilities, they must determine whether or not a student's dangerous, seriously disruptive behavior, or other behavior violates a district discipline code of conduct, is a *manifestation of their disability* and, as such, *is not something they can control, be held accountable for, or subsequently be subjected to the school district's normal disciplinary procedures.* The IEP team must make a manifestation determination, as well as conduct a functional behavioral assessment and implement a behavior intervention plan for the child before the school district may apply the general disciplinary policy/practices

otherwise applied to nondisabled students. If disciplinary action involves change of placement for more than 10 days, parents must be notified of the decision and of all procedural safeguards not later than the date on which the decision to take action is made. The IEP team and other qualified personnel must conduct a manifestation determination with the parents' participation immediately, if possible, but no later than 10 school days after the decision to take disciplinary action is made, to review the relationship between the child's disability and the behavior subject to the disciplinary action under a school's discipline code of conduct. Under the 1997 Amendments to IDEA there are three statutory components to this inquiry:

- Were the student's IEP and placement appropriate, and properly implemented, in relation to the behavior which is the subject of the disciplinary action?
- Did the student's disability impair his or her ability to understand the impact and consequences of the behavior which is the subject of the disciplinary action?
- Did the student's disability impair his or her ability to control the behavior which is the subject of the disciplinary action?

In making this determination, the IEP team must consider all relevant information pertaining to the incident that violated the school's code of conduct, including:

- evaluation/diagnostic results (including information provided by parents)
- observations of the child
- child's IEP and placement

In order to find that the behavior was not a manifestation of the disability, the IEP team must determine that in relation to the behavior subject to disciplinary action:

- the IEP and placement were appropriate
- supplementary aids and services were provided
- behavior intervention strategies were provided consistent with the IEP and placement
- the child's disability did not impair the child's ability to understand the impact and consequences of the behavior
- the child's disability did not impair the child's ability to control the behavior

2. No Manifestation

If the behavior was not a manifestation of the child's disability, the child may be disciplined as a nondisabled child under the general conduct code, but must continue to receive a free appropriate public education (FAPE). There is no cessation of educational services.

3. Manifestation Summary

When there is a relationship between a child's behavior and the failure to provide or implement an IEP or placement, the IEP team must conclude that the behavior was a manifestation of the child's ability. If the behavior is a manifestation of the child's disability, the child's placement cannot be changed, except via the IEP team process Also, if a student hasn't already been provided with behavior interventions and undergone a functional behavior assessment, the behavior must be considered a manifestation of the student's disability.

Note: See Appendix E for detailed IEP team considerations for conducting manifestation determination reviews, Appendix F for Decision Making reference materials, and Appendix M for IDEA Discipline Flowchart with accompanying narrative reference materials.

D. PROGRAM PLANNING

1. Behavior Intervention Program Planning: A Prevention Approach

IEP teams must recognize that effectively managing the behavior of students with disabilities should begin long before the development of a behavior management plan. There are many positive proactive steps educators can take in addition to a safe school plan to address appropriate student conduct for *all* students proactively and preventively. These include, but are not limited to:

- Involvement in school-wide discipline plans which are well-structured and implemented effectively
- Frequent positive parent contacts
- Early screening to identify students at risk of developing serious learning and/or behavior problems
- Training for ALL staff members in classroom management, conflict management, and disability awareness
- Training for students in pro-social skills and conflict management (e.g., The Responsive Classroom, Northeast Foundation For Students, Mass.)
- Implementation of peer buddy and peer mediation programs
- Peer and staff mentoring programs
- Counseling services, psychological services, social work services
- Substance abuse counseling
- Accessing and teaming with various community resources to support the student and family

2. Behavior Intervention Program Planning Components

Programs and resources such as these can be used to address student misbehavior at the earliest stages before it exacerbates and requires more drastic measures. Based on the level of behavioral dysfunction of the student, educators should consider

accessing one or more of these three components when developing an individualized plan for managing the behavior of a particular student:

- An effective overall behavior management program for the classroom and an individual behavior management plan for the student;
- Behavioral counseling that involves the student in describing and evaluating his/her own unacceptable behaviors, learning alternative ways he or she could respond and deciding on alternative acceptable behaviors; and
- Social skills training that enables the student to increase his/her ability to obtain positive social reinforcement while decreasing the likelihood of negative peer and adult responses.

Behavioral counseling interventions can take many forms. This intervention places the emphasis on teaching the student to use verbalization in a systematic fashion so the self talk mediates impulsive or inappropriate behavior. A similar approach (Feindler and Eaton, 1986) involves teaching the student to identify situations that trigger anger and identify physiological states related to anger; to use relaxation methods or cognitive behavioral methods; and to evaluate their own responses.

Structured learning sessions are psycho-educational behavior approaches for providing instruction in appropriate social skills for students exhibiting challenging behaviors (McGinnis, Goldstein, Sprafkin, & Gershaw, 1984). These sessions may be conducted with the entire classroom with reinforcement sessions planned as necessary with selected students. Contingency reinforcement plans and social contracts are other options for consideration that can work well.

3. Behavior Management Plans

Behavior management plans are now required to be considered by the IEP (S614 (d)(3)) for students with behavior problems and are effective prevention methods to reduce violence and inappropriate conduct. Behavior management plans are used to communicate to all school staff who serve the student, how they should respond if the student's misbehavior should escalate. They improve the consistency of response among staff and offer a clear protocol on how staff can intervene to prevent a behavioral escalation to a severe level. Specifically, the IDEA state that IEP teams shall consider, in the case of a child whose behavior impedes his or her learning or that of others, when appropriate, strategies including positive behavior interventions and support to address that behavior.

Developing an effective program for the behaviorally challenged student presents the IEP team with several issues. The student's IEP must address instructional needs through an individualized and competency-based instructional program leading to improved basic academic skills. It must also address management of the student's behavior in a planned and proactive fashion.

When developing the IEP for a student with behavior disorders, the school team,

which under IDEA now must include the parent and a regular education teacher representative to be members of any group which makes a decision on the student's education placement:

- Identify the primary disability
- Describe the educational and behavioral manifestations of the disability
- Target behavioral expectations for the student
- Identify potentially unacceptable behaviors that may be caused by the disability
- Identify strategies for controlling those behaviors and appropriate points of intervention
- Determine appropriate disciplinary procedures
- Identify when the response may include a temporary removal to a more restrictive placement and what behavioral change will lead to the student's return to the original placement

To accomplish this, **behavioral descriptions should be (1) based on current data, and (2) defined operationally.** While some of the behavioral data needed for this process may be obtained by formal assessment, much may be culled from informal assessment such as checklists, parent and teacher interviews, structured and unstructured observations and anecdotal records.

Anticipated disciplinary issues should be discussed during the IEP meeting with parents or caregivers. **Once the IEP contains a behavior management plan, disciplinary measures authorized in the IEP which could articulate a removal to a more restrictive placement become a component of the student's placement.** This is an important legal aspect of behavior management plans in relation to a student's educational placement. The implementation of a well-articulated behavior management plan that has been agreed to by the school and the student's parents avoids the issue of whether or not a disciplinary action constitutes a change in placement. When the IEP describes the behavioral management plan to be followed for a given student, change in placement procedures normally would not be invoked upon implementation of the disciplinary action already included in the IEP. The behavior management plan is, therefore, a protection for the student and hopefully avoids misunderstanding between the school and parents/caregiver if a behavioral crisis should occur. On the other hand, if the expected conforming behaviors do not emerge when the well-developed behavioral plan is properly implemented, the IEP committee may be able to justify a recommendation for a change in placement.

The school team may choose to incorporate all of the details of the behavior plan within the body of the IEP or may choose to include only the goals and objectives, preferring to articulate specific behaviors, consequences and disciplinary measures in an addendum. **The behavior management plan should contain clear descriptions of the behaviors that are expected of the student** and what the consequences will be if these behaviors do or do not occur. If this plan contains components that differ from those that are in place for all students, students, parents and school staff should be

involved in its development. General school rules apply to all students and any modification of them can exist only if the IEP team process determines this is appropriate and necessary for a given student.

4. Implementation of Interventions

It is the responsibility of the district to ensure that a behavioral intervention is carried out as prescribed in the behavioral management plan and in accordance with professional best practices and these guidelines. This will involve training teachers, aides, and other personnel in the procedures of the intervention, as well as ongoing monitoring of the implementation of intervention procedures. The use of more restrictive interventions requires greater planning, documentation, and supervision. Close on-going involvement with parents regarding all aspects of the selection and implementation of an intervention is imperative (Appendix D).

5. Evaluation of Restrictive Interventions

The ultimate effectiveness of behavioral interventions will be maximized if ongoing evaluation of the intervention is conducted and appropriate modifications based on this evaluation are completed. Typically, an intervention evaluation should involve the daily collection of observational data.

The evaluation of the behavioral intervention should include:

- Baseline data taken from the functional analysis concerning the frequency, duration, and intensity of the target behavior prior to initiation of the intervention;
- Data concerning the frequency, duration, and intensity of the target behavior after initiation of the intervention;
- Evaluation by the teacher, parents, and other parties involved in the intervention at appropriate planned intervals.

If significant modifications or new interventions are needed, additional functional analyses should be conducted. Based on these analyses, modifications should be proposed and parental notification and input obtained. If significant changes in the intervention are deemed necessary, appropriate modification of the student's IEP must be made.

6. Generalization and Maintenance

The long-term impact of an intervention will be determined substantially by the degree to which it generalizes across settings and is maintained over an extended period of time. When designing behavioral interventions, school personnel should make every effort to plan for generalization and maintenance. Some of the most common methods for enhancing generalization and maintenance include:

- Teaching new behaviors that are reinforced naturally in the student's everyday environment.;
- Involving multiple others in training and reinforcing a new behavior;
- Teaching new behaviors in many different settings;
- Changing the timing of reinforcement (e.g., from continuous to intermittent);
- Moving from tangible to social reinforcers;
- Reinforcing the student's spontaneous use of new behavior;
- Phasing out the reinforcement program gradually;
- Developing self-reinforcement skills;
- Planning periodic follow-up monitoring and "booster" training sessions, as necessary.

Various formats for behavior management plans can be used to alleviate inappropriate behaviors. One comprehensive resource on classroom behavior management is available from Randall Sprick and Lisa Howard in their book, The Teacher's Encyclopedia of Behavior Management: 100 Problems/500 Plans. This handbook provides model intervention plans for responding to motivation, behavior and discipline problems, with particular focus on the proactive response of the classroom teacher. Each classroom problem includes a general description, goals for the interventions, and several model plans depending on the severity of the problem. Appendix D includes examples of the type of information included in this resource.

Eric P. Hartwig and Gary M. Ruesch in their book Discipline in the School (LRP Publications, Horsham, Pennsylvania, 1994) offer two formats for an Individual Behavior Management Plan - see Appendix D.

7. Behavior Management Plans: Sample Formats

Format 1:

Background Summary	Brief overview of the student's educational history and special education needs.
Prior Interventions	The special education placements previously used; the behavioral interventions used; the specialized instruction provided along with necessary related services; and the successes and failure experienced.
Behavior Patterns	An articulation of the student's diagnosis and the corresponding behavioral problems presented by the student.
Response to Discipline/ Learning Style	Requirements for the student to be effectively managed and procedures that have worked

Parental Involvement	Statements of how the parents have addressed the behavior with school personnel over time; how they can coordinate with the school personnel to address behavioral issues.
Special Considerations	Health, medical, mental health, etc.
Techniques	A protocol of different interventions the team has determined to be available/appropriate in responding to behavior the student may exhibit from the least aversive to the most aversive.

Format 2:

Description of the problem including the frequency, duration and intensity.

Identified antecedents	Behaviors such as talking out, off-task behavior, refusing to open a book, etc. which have the potential for leading more disruptive behavior.
Goal	To eliminate the disruptive, aggressive or noncompliant behavior.
Plan	The techniques, consequences, and actions to be taken and by whom. The services and programming options to be implemented. The format could include the specific plan, the staff/agency responsible, the data collection process and the schedule. The plan needs to be specific and broken down into at least the following sections: I. Classroom management plan. II. Managing aggressive and/or assaultive behaviors. III. Reinforcement contingencies for positive behavior.

The plan concludes with IEP meeting participants present signing the document with their name and title. Also included is the signature and date of the participating student and the parent.

E. PLACEMENT

After the IEP team has determined and described the components of an appropriate educational program, the placement decision can be made.

1. **Interim Alternative Educational Setting (IAES) by School Personnel**

Under IDEA, school personnel may order a change in the placement of a child with a disability to an appropriate interim alternative education setting (IAES), another setting, or suspension, for not more than 10 cumulative or consecutive school days. School personnel may order a change in placement to an appropriate IAES determined by the IEP team for the same amount of time as would be applied to nondisabled students up to 45 days for the following reasons:

- **Weapons and Drugs**: A student that carries a weapon to school or to a school function, or who possesses or uses illegal drugs or sells or solicits the scale of a controlled substance can be placed by the LEA in an IAES for no more than 45 days. An evaluation/assessment, a behavior intervention plan, and a manifestation determination must be developed conducted before or not later than 10 days after placement in an IAES.

2. **Interim Alternative Educational Setting Placement by Hearing Officer**

Under IDEA school personnel may request placement in an Interim Alternative Education Setting from a hearing officer for injury to self or others.

- **Injury to Self or Others:** Placement in an IAES may also be ordered by a hearing officer for no more than 45 calendar days if the officer determines that the LEA has demonstrated "beyond a preponderance of the evidence" that maintaining the current placement is "substantially likely" to result in injury to the child or to others. The hearing officer must also consider:
  - whether the LEA has made reasonable efforts to minimize the risk of harm in the appropriateness of the current placement;
  - current placement; and
  - determine that the IAES meets the requirements in the legislation.
- **Preponderance of the Evidence**: To demonstrate that a student is dangerous
  - "beyond a preponderance of the evidence", the LEA must show:
  - substantial likelihood of injury;
  - reasonable steps to minimize the likelihood of harm;
  - appropriateness of the current IEP;
  - that the proposed IAES meets the requirements of the legislation required Elements for "Dangerousness".

3. **IAES Requirements:**

The interim alternative education setting must:

- be determined by the IEP team;
- ensure participation in the general education curriculum;

- continue the provision of services and modifications leading to attainment of IEP goals and objectives; and
- include services and modifications designed to address the problem behavior so that it does not recur.

NOTE: Parent notice required no later than the date on which the decision to take disciplinary action leading to an IAES is made.

4. Student Placement During Appeal

During an appeal, the child shall remain in the Interim Alternative Educational Setting(IAES) pending the decision of the hearing officer or until the expiration of the time limit, whichever occurs first, unless the parent and the SEA or LEA agree otherwise. If a child is placed in an IAES and school personnel propose to change the child's placement after expiration of the IAES, the child shall remain in the original placement (prior to the placement in the IAES) during the pendency of any proceeding to challenge the proposed change in placement. If school personnel maintain that it is dangerous for that child to be in the current placement, the LEA may request an expedited due process hearing. Only a due process hearing officer may extend a child's placement in an IAES, and for only a time period not to exceed an additional 45 days.

5. Interim Alternative Education Options

The availability of alternative educational programs varies with each state and local school district. Below are examples of various types of alternative programs that could be options for students subject to disciplinary recommendations:

1. **Alternative Education Classes or Programs**. A variety of alternative education settings may be available. They might include a special school; evening programs; community based instructional programs; school-based programs for chronically disruptive students; alternative learning centers; multiagency instructional arrangements (court/mental health/LEA collaborative programs); functional vocational programs with integrated instruction; project-based instruction; independent study programs; and others. Provision of a behavior coach or other paraprofessional may be helpful.

2. **Cable TV Instruction**. Some schools have their own cable channel which could be dedicated for some instructional programs. If not, public access may be provided by the local cable company.

3. **Correspondence Courses**. Students can meet course requirements through independent work. Packets can be developed that have assignments that will enable the student to learn the subject.

4. **Homebound Instruction**. A student may be confined to their home and be served by an itinerant teacher who comes to the home, provides instruction and assigns homework.

5. **Independent Study**. Students can be given assignments to be done independently away from the school. A teacher determines if their assignment meets the course requirements.

6. **Related Services**. Related services must be continued, unless otherwise modified by the IEP team, during and interim educational placement.

7. **Tutoring**. Individual tutoring can be provided in a special setting. Options may include a school, district office, neighborhood center, juvenile center or other setting.

8. **Teleteaching**. Telephone equipment is available that allows for conducting a class by telephone. A teacher presents instruction while up to 20 students can call in and listen. Students participate in the class by telephone and can hear each other as well as the teacher. Assignments are done independently by students and sent to the teacher for feedback and grading.

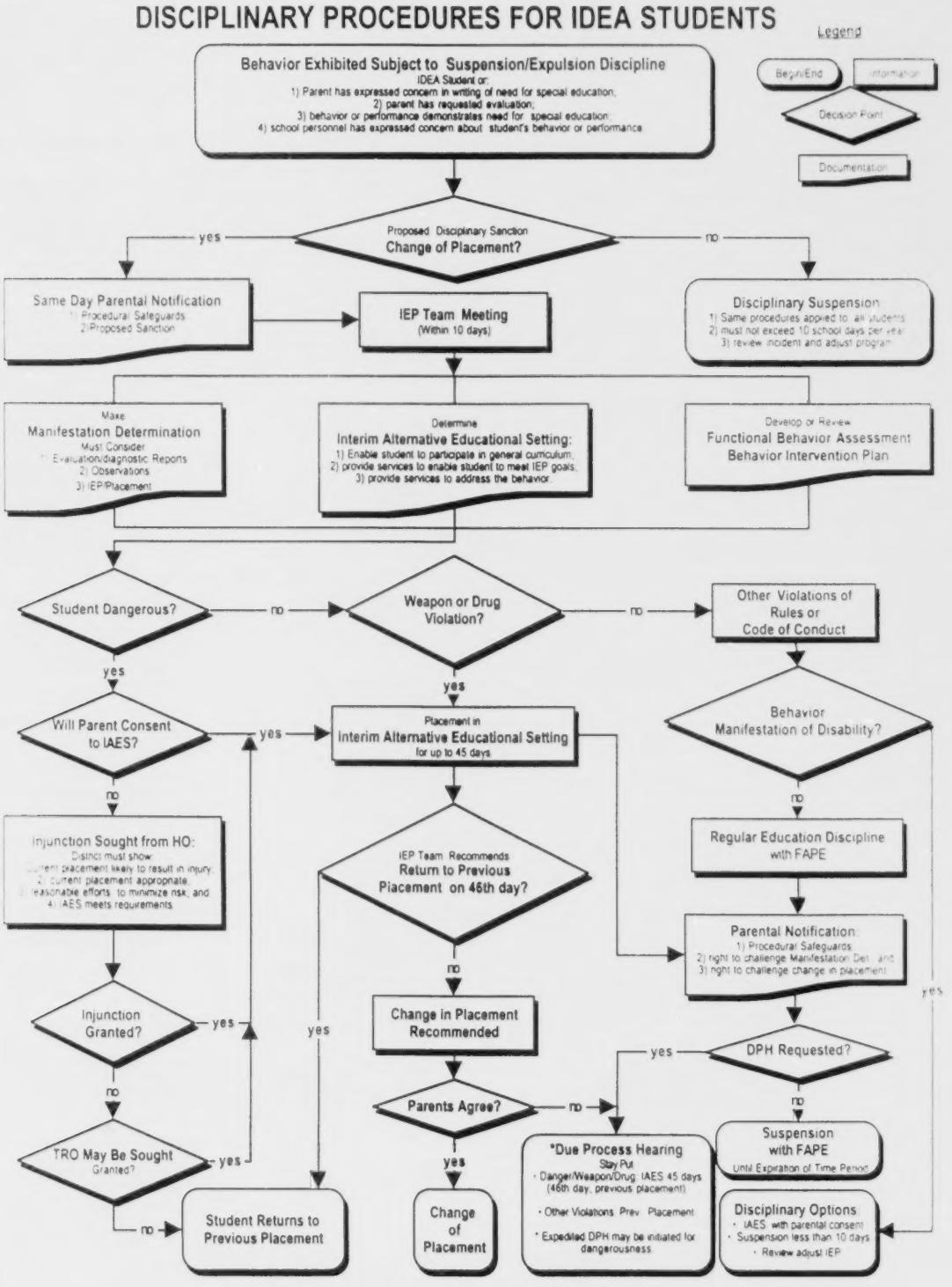
9. **Videotaped Classes**. For some courses, videotapes may be developed that can be checked out by students. Assignments may be done independently and graded by an assigned teacher.

10. **Related Services**. Related services must be continued, unless otherwise modified by the IEP team, during an interim educational placement.

6. Access and Participation in the General Education Curriculum

When considering an alternative educational setting, the hearing officer must ensure that the interim or alternative placement enables the child to continue to participate in the general education curriculum, although in another setting other than the original placement, and to continue to receive those services and modifications, including those described in the child's current IEP, that will enable the child to meet the goals set out in that IEP.

F. IDEA Discipline Flow Chart


DISCIPLINARY PROCEDURES FOR IDEA STUDENTS
Legend
Begin/End
Information
Decision Point
Documentation
Behavior Exhibited Subject to Suspension/Expulsion Discipline
IDEA Student or:
1) Parent has expressed concern in writing of need for special education;
2) parent has requested evaluation;
3) behavior or performance demonstrates need for special education;
4) school personnel has expressed concern about student's behavior or performance
Proposed Disciplinary Sanction
Change of Placement?
yes
no
Same Day Parental Notification
1) Procedural Safeguards
2) Proposed Sanction
IEP Team Meeting
(Within 10 days)
Disciplinary Suspension
1) Same procedures applied to all students
2) must not exceed 10 school days per year
3) review incident and adjust program
Make
Manifestation Determination
Must Consider
1) Evaluation/diagnostic Reports
2) Observations
3) IEP/Placement
Determine
Interim Alternative Educational Setting:
1) Enable student to participate in general curriculum;
2) provide services to enable student to meet IEP goals;
3) provide services to address the behavior.
Develop or Review
Functional Behavior Assessment
Behavior Intervention Plan
Student Dangerous?
Weapon or Drug Violation?
Other Violations of Rules or Code of Conduct
Will Parent Consent to IAES?
Placement in
Interim Alternative Educational Setting
for up to 45 days
Behavior Manifestation of Disability?
Injunction Sought from HO:
District must show:
1) current placement likely to result in injury;
2) current placement appropriate;
3) reasonable efforts to minimize risk; and
4) IAES meets requirements
IEP Team Recommends
Return to Previous Placement on 45th day?
Regular Education Discipline with FAPE
Parental Notification:
1) Procedural Safeguards
2) right to challenge Manifestation Det.; and
3) right to challenge change in placement
Injunction Granted?
Change in Placement Recommended
DPH Requested?
Parents Agree?
TRO May Be Sought Granted?
*Due Process Hearing
Stay Put
• Danger/Weapon/Drug: IAES 45 days (46th day, previous placement)
• Other Violations: Prev. Placement
• Expedited DPH may be initiated for dangerousness.
Suspension with FAPE
Until Expiration of Time Period
Disciplinary Options
• IAES with parental consent
• Suspension less than 10 days
• Review/adjust IEP
Student Returns to Previous Placement
Change of Placement

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SECTION IV.

DUE PROCESS PROCEDURAL SAFEGUARDS UNDER 1997 AMENDMENTS TO IDEA

A. Notification to Parents

Parents must be immediately notified of the discipline decision and all procedural safeguards under the 1997 Amendments to IDEA when a student violates the Code of Conduct. The 1997 Amendments to IDEA divides information sent to parents into two notices:

Prior Written Notice when the agency proposes to initiate, change, or refuse to initiate or change the identification, evaluation, or educational placement of the student or the provision of a FAPE.

Procedural Safeguards Notice is required upon initial referral for evaluation, at each notification of an IEP meeting and reevaluation, and upon registration of a complaint.

Prior Written Notice requirements include:

- a description of the action proposed or refused by the agency;
- explanation of why the proposed action is proposed or refused;
- a description of other options that were considered and why those were rejected;
- a description of each educational procedure, record, or report relevant to the agency's action;
- a description of other relevant factors;
- a statement that the parents have protection under the procedural safeguards can be obtained;
- sources for parents to contact to obtain assistance in understanding these provisions.

Procedural Safeguards Notice require parents must be fully informed of all available procedures:

- Parents shall be given a copy of procedural safeguards at a minimum upon initial referral for evaluation, upon each notification of IEP meeting and reevaluation and upon registration of complaint.
- Notice shall be written in easily understandable manner and provide full explanation of safeguards relating to:
  - -independent educational evaluation;
  - -prior written notice and prior written consent;
  - -access to educational records;
  - -opportunity to present complaints;
  - -placement during pendency of due process proceedings;
  - -procedures for interim alternative education settings;

-requirements for unilateral placement by parents of students in private schools at public expense;
-mediation;
-due process hearings;
-state-level appeals if applicable;
-civil actions; and
-consent for reevaluation.

B. "Stay Put" Provisions

The Supreme Court ruled in the Honig case that the "stay-put" provision of the IDEA prohibits state or local school authorities from unilaterally excluding students with disabilities from the classroom for dangerous or disruptive conduct growing out of their disabilities, during the pendency of regular due process proceedings.

The Supreme Court in Honig believed its decision provided school districts with the critically important protection against school districts expelling students with disabilities without following the appropriate procedural requirements under the IDEA while at the same time affirming that school districts do have the means to move a dangerous student to a temporary alternative education placement for more than ten days if they can convince a local court the need to do so to protect the rights of others.

Redefined "Stay Put" Provision:
During an appeal of the removal of a student from an IAES, the student shall remain "Stay Put" in the Interim Alternative Educational Setting(IAES) pending the decision of the hearing officer or until the expiration of the time limit, whichever occurs first, unless the parent and the SEA or LEA agree otherwise. If a student is placed in an IAES and school personnel propose to change the student's placement after expiration of the IAES, the student shall remain in the original placement (prior to the IAES) during the pendency of any proceeding to challenge the proposed change in placement. If school personnel maintain that it is dangerous for that student to be in the current placement, the LEA may request an expedited due process hearing. Only a due process hearing officer may extend a student's placement in an IAES, and for only a time period not to exceed an additional 45 days.

C. Mediation

The availability of mediation is now required under the 1997 Amendments to IDEA, although participation is on a voluntary basis. Mediation may not be used as a delaying tactic, and it must be performed by a qualified impartial mediator. The LEA may establish procedures requiring a parent who refuses mediation to meet with a disinterested party who will explain the mediation process and the value of its use. The State is required to maintain a list of qualified mediators and to bear the costs of mediation. Mediation results shall take the form of a written agreement between the parties. The discussions are confidential and may not be used as evidence in subsequent due process hearings.

School personnel may find the following ideas helpful:

- View mediation as a positive opportunity to clarify the issues that are in dispute as well as the relief sought by the parent. Remember that either the LEA or the parent can initiate mediation.
- Use the mediation process to explore all the issues, and to discuss other reasonable options as solutions, beyond the specific relief sought by the parent.
- Work with your colleagues to develop a list of professionals who will serve as neutral parties perhaps by collaborating with other districts or with local parent advocacy groups. Be sure to inform parents that the use of the disinterested party is a federal requirement.
- The mediation conference is an informal discussion. No lawyers are usually present. In order to resolve the issues, the mediator may utilize some of the same techniques used in negotiations. That is talk to all parties concerned, then place the parties in separate rooms for individual discussions of acceptable options then bring the parties back together to develop a plan. The mediator also needs to get a sense of the willingness of the parties to negotiate their positions.
- Mediation may require more than one session. Agree to continue if there appears to be progress toward a solution. Mediation may serve to prevent the need for due process.

No changes generally are made to a pupils classification, program, or placement during the course of mediation.

D. Parental Appeal of Manifestation Determination or Placement Decision

Parents who disagree with the manifestation determination or any decision regarding placement may request a hearing. In such cases, the State or the LEA shall arrange for an expedited hearing. When parents request a hearing regarding a disciplinary action with respect to weapons, or illegal drugs, or a controlled substance or actions that are substantially likely to result in injury to the child or others or to challenge the interim alternative educational setting or the manifestation determination, the student shall remain in the IAES pending the decision of the hearing officer, but not more than 45 days.

E. Hearing Process

The new legislation allows parents who disagree with a termination that the child's behavior was not a manifestation of the disability to request a hearing and for the SEA or LEA to arrange for an expedited hearing. The student shall remain in the IAES pending the decision of the hearing officer or until expiration of the 45 day time limit, whichever occurs first, unless the parties (parents and the SEA/LEA) agree otherwise.

If school personnel propose to change the student's placement *after* the expiration of the IAES (45 days), the student shall return to the placement prior to the IAES during the pendency of any due process proceeding challenging the proposed placement.
Exception: Upon the request or an expedited due process hearing, a hearing officer may order continuation of the IAES for an additional 45 days if the LEA demonstrates substantial risk/danger to self or to others in the contested prior placement.

Disclosure: Evaluation information prior to due process hearings: At least five (5) business days prior to a hearing, each party must disclose to all other parties all evaluation completed by that date including recommendations intended to be used at the hearing.

F. Required Elements for "Dangerousness"

The hearing officer must use the standards set forth by the Supreme Court in **Honig v. Doe** to make the determination regarding whether it is dangerous for a child to receive special education and related services in his or her original educational placement.

The hearing officer must consider if the:

- school has demonstrated **by substantial evidence** that maintaining the child in the current placement is **substantially likely to result in injury** to the child or to others;
- current IEP/placement is appropriate;
- school made reasonable efforts to address the child's behavior.

Additionally, the hearing officer must ensure that the IAES or alternative placement:

- enables the child to continue to **participate in the general curriculum** and continue to receive IEP services;
- includes **services and modifications to address behavior** so that it does not recur.

If the hearing officer determines that it is dangerous for the child to return to his or her original placement, based on the **Honig** standards, then the hearing officer may order a change in the child's placement to an appropriate IAES **for not more than 45 days.**

G. Attorney's Fees

Attorney's fees are prohibited for any meeting of the IEP team unless the meeting is convened as a result of an administrative proceeding, judicial action, or, at states' discretion and /or for a mediation conducted prior to the filing of a complaint.

Attorney's fees may be reduced if the parents' attorney did not provide required information to the school district.

SECTION V.

STUDENT RECORDS

A. Required Data Collection

New reporting requirements are included in the 1997 amendments to IDEA. SEAs must collect data to determine if significant discrepancies are occurring in rate of long term suspensions and expulsions:

- among LEAs in the state; or
- compared to such rates for nondisabled students and shall review and revise, if appropriate, policies/procedures to correct inappropriate discrepancies.

The SEA/Secretary of the Interior, will annually provide data to the Secretary of Education, including:

- number, by race, ethnicity, and disability category, removed to IAESs, acts precipitating removal, and number of students subject to long-term suspensions or expulsions. States will also collect and examine data to determine if there is significant disproportionality based on race, ethnicity, and disability category;
- identification of students as student with disabilities in certain disability categories; and
- placement of those students in particular educational settings.

If such disproportionality should be identified, states will review and revise policies/procedures accordingly.

Required Records Transmission

States may require LEAs to include, in the record of a student with a disability, statement of current or previous disciplinary action. Statements will be included in and transmitted with other records *to the same extent that such information would be included in/transmitted with records for non- disabled students*. Statements may include description of any behavior that required disciplinary action, description of action taken, and other information relevant to the student's safety or safety of those involved with that student.

B. Confidentiality in Electronic Records Transmission

Student records are often sent more efficiently via fax or email and it is recommended that every precaution be taken to ensure confidentiality and compliance with the Family Rights and Privacy Act of 1974 and state and local policy regarding records and confidentiality. When transmitting records electronically, it is crucial that the sender state in the beginning of the correspondence the confidential nature of the transmission and document such in a cover fax sheet or email memorandum (see Appendix G for samples).

SECTION VI.

PROFESSIONAL DEVELOPMENT/TRAINING BEST PRACTICES RECOMMENDATIONS

The research on staff development indicates that virtually all staff can learn and use complex teaching and behavior intervention and support strategies if they are designed properly. It is recommended that select staff be targeted for training and support and relevant, functional, and meaningful staff training be provided to all staff school wide, but particularly to those providing direct services to students with differential learning styles and/or behavioral problems.

Examples of Professional Development topics for all service providers, including paraprofessionals, principals and administrators, teachers, and other support staff may include:

1. Training in 1997 Amendments to IDEA procedures for principals and support staff.

2. Consequences of non compliance with IDEA for principals and key administrative staff.

3. Training in functional behavior assessments.

4. Training in multicultural education and the impact of culture on behavior in working with students, parents, and teachers in culturally and linguistically diverse districts.

5. Behavior intervention planning for all staff involved in plan implementation.

6. Positive reinforcement behavior management.

7. Train in safe physical management and physical restraint, and verbal de-escalation.

8. Training in instructional strategies and methodologies for bilingual disabled students.

9. Training in specialized instructional techniques such as social skills training and anger management.

10. Training in the leaning characteristics of students with disabilities especially for regular education staff.

11. Training in standards based reform initiatives for special and regular education staff to better understand expectations for learning and behavior as a part of state and local reform initiatives.

12. Training in effective curricular designs, instructional approaches and strategies for services to student with disabilities in the regular classroom.

13. Training in the development of school wide safe plans.

14. Training in the development and implementation of Student Success Teams (i.e., Student Study Teams, Teacher Assistance Teams, etc.) to prevent and reduce behavioral or other problems which put students and schools at risk of failure.

15. Training in various aspects of the Improving America's Schools Act as it relates to entitlements, programs, and services for students with disabilities.

16. Training of staff and parents on how to work effectively together to increase achievement.

SECTION VII.

DEFINITION OF TERMS

1. Controlled substance means a drug or other substance identified under schedules I, II III, IV or V in section 202 (c) of the Controlled Substances Act (21 U.S.C. 812(c)).

2. Criminal Acts are acts defined as criminal under Federal and State law, and any applicable municipals or county criminal ordinances.

3. District means that political subdivision of the State established for the administration of public schools and governed by a District.

4. IDEA means part B of the Individuals with Disabilities Education Act, as amended in 1997.

   IEP Team means a group of individuals composed of the parents of a student with a disability,
   at least one regular education teacher of the student (if the student is, or may be, participating in the regular education environment, at least one special education teacher, or where appropriate, at least one special education provider of such student; a representative of the local educational agency who:
   - is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students with disabilities;
   - is knowledgeable about the general curriculum; and
   - is knowledgeable about the availability of resources of the local educational agency.

   Also included is an individual who can interpret the instructional implications of evaluation results, who may be a member of the team and at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate; and where appropriate, the student with a disability.

5. IEP or 504 plan means the written individualized education program or plan for a student with disabilities that is developed and implemented in accordance with the IDEA and its implementing regulations or Section 504 and its implementing regulations.

6. Illegal drug means a drug or other substance identified under schedules I, II, III, IV or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)), but does not include such a substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under the Controlled Substance Act or under any other provision of Federal law.

7. Interim Alternative Education Setting (IAES) is the placement determined by the IEP team that is selected so as to enable the student to continue to participate in the general curriculum, continue to receive services and modifications that will enable the student to meet the goals in the IEP and include services and modifications designed to address the problem behavior.

8. Mediation is a voluntary process conducted by a qualified and impartial mediator trained in effective mediation techniques.

9. Parent means a parent, guardian, a person acting as a parent of a student or a surrogate parent. The term includes persons acting in the place of a parent such as a grandmother or stepparent with whom a student lives, as well as persons who are legally responsible for a student's welfare.

10. Substantial evidence as used in section 615(k) means evidence that is beyond a preponderance of the evidence.

11. Supplementary aids and services means aids, services, and supports provided in the regular classroom or other educationally related settings to enable disabled students to be educated with nondisabled students to the maximum extent appropriate.

12. Weapon means any firearm that is designed to, may readily be converted to or will expel a projectile by the action of an explosion; any destructive device that is an explosive or incendiary device, bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter-ounce, mine or similar device; and a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2 1/2 inches in length.

SAFE SCHOOLS: SAFE STUDENTS

APPENDIX SECTION

APPENDIX A-I-1
Safe Schools Plan

Santa Fe Public Schools
Safe School Planning Guide

General Information

School: _____

District: _____ Telephone: _____ Fax: _____

Safe School Team Leader: _____

Safe School Team Members:

Administrator: _____

Teacher: _____ Teacher: _____

Staff: _____ Staff: _____

Parent: _____ Parent: _____

Student: _____ Student: _____

School Resource Officer: _____

Objectives of Program: _____

_____

_____

_____

Date: _____

APPENDIX A-I-2
Safe Schools Plan

Santa Fe Public Schools
Safe School Planning Guide

Activities Report

This report covers the period _____ *through* _____ *19* ___.

Safe School Team Activities:

1. _____

_____

_____

Team Member Lead: _____ Task Accomplished? Yes/No

2. _____

_____

_____

Team Member Lead: _____ Task Accomplished? Yes/No

3. _____

_____

_____

Team Member Lead: _____ Task Accomplished? Yes/No

List reasons why any of the above tasks were not accomplished: _____
_____
_____
_____

APPENDIX A-I-3
Safe Schools Plan

Santa Fe Public Schools
Safe School Planning Guide

Activities Report Continued

List any obstacles encountered in accomplishing tasks: _____

_____

_____

_____

Approximately how many students and adults participated in the listed tasks during this reporting period? _____

Since program implementation, what are the positive changes that have occurred? _____

_____

_____

_____

_____

List the changes (if any) to the original plan. _____

_____

_____

_____

List any issues the team needs help with. _____

_____

_____

Safe School Team Activities for Next Month:

1. _____

_____

Team Member(s) Responsible _____

2. _____

_____

Team Member(s) Responsible _____

3. _____

_____

Team Member(s) Responsible _____

APPENDIX A-II
PREVENTION PLANNING

CRISIS RESPONSE PLAN WHEN A VIOLENT OR AGGRESSIVE ACT OCCURS IN SCHOOL

Every school, i.e. elementary through high school, should develop a crisis response plan, for use when violent or aggressive acts occur within the school. The plan should be developed with appropriate staff input. Having a plan in place PRIOR TO a crisis allows a school to respond to stressful situations in a planned and proactive manner. Of course, training for all staff is necessary for effective implementation.

The rationale for this recommendation is based on the fact that violent and aggressive acts are taking place with higher frequency in all public schools. These acts affect the students/staff who are directly involved as well as their families, friends of the student, witnesses to the act, bystanders, and the general community. School building resources may be inadequate to deal with the problem, requiring that district level or community resources be brought to bear. Participants in the incident may suffer serious aftereffects, including traumatic stress syndrome. Parents and community members become more concerned about the safety of ALL students in the school. In many instances the media becomes involved. The crisis response plan should have components that would address each of the above contingencies.

School districts may have in place crisis intervention plans that were developed as a planned response to a completed suicide or the sudden death of a student or faculty member. In many instances, these plans can be modified and used when a violent or aggressive incident occurs in the school.

The crisis response plan should include the following components at a minimum:

- Identification of staff members who will have major roles and their responsibilities.
- Involvement of the appropriate IEP team for students with disabilities.
- Utilization of a building level Crisis Team.
- Strategies for handling the media including designating official spokespersons.
- Staff training.

<u>Identification of Staff members who will have major roles in a crisis.</u>

Principal - determines when the Crisis Response Plan will be implemented and informs the Chief School Administrator. Meets with building Crisis Team members as early as possible for the purpose of distributing information. Calls an emergency staff meeting to disclose relevant facts pertaining to the situation. May prepare written statement for

distribution to absent staff members. Confirms what students and parents will be told about the incident.

The Principal selects specific members (and alternates) for the Crisis Response Team. If a public address system is available, the Principal may want to utilize a building security code to inform staff of an emergency in progress. The Principal also suspends the violent student and recommends students for expulsion. The Principal's secretary is included in all meetings. The Principal is the only spokesperson for the building.

Assistant Principal - acts as advisor to the Principal. Coordinates security including control of persons entering and leaving the building. Assists in keeping lines of communication open with staff and students.

Selected teachers - support to staff provides administration with feedback from staff and students.

Guidance Staff - serve as group and individual counselors to staff and students as required.

Principal's secretary - assists in communications. Performs other duties as assigned.

Superintendent - usually solely responsible for communication with the media. No media is permitted access to students or staff on school grounds.

Others - if the crisis involves a tragic death, the Principal may wish to involve members of the Suicide Response Team or other similar groups with appropriate training to deal with the grief issues of the crisis.

Involving the IEP Team for students with disabilities.

If the student who commits the act of violence or aggression is an identified student with a disability, the IEP Team, the special education administrator and especially the student's case manager should immediately be notified of the situation. Details of the incident should be documented in the student's case file, as well as deliberations of the Team regarding the student and any disciplinary action recommended by the administrator.

The IEP Team is responsible for reviewing the student's current program and level of service. The IEP Team also makes a determination of the relationship of the student's action to his/her disability and makes placement recommendations to administration and parents. If a more restrictive environment is indicated, the IEP Team is responsible for implementation within the context of the IDEA procedural safeguards.

Utilizing a building level Crisis Team.

The rumors that develop following an unusually violent or aggressive incident are usually fraught with inaccurate information. Members of the building level team act proactively

in dispelling rumors and provide feedback to administration. Sharing accurate information with the staff is important, so staff can be proactive in dispelling rumors among the students.

If the crisis involves a tragic death, the Principal may wish to involve members of the Suicide Response Team or other similar groups with appropriate training to deal with the grief issues of the crisis. This group will help to determine if outside resources should be called upon for assistance, and provide resource materials on grief and loss.

Strategies for handling the media including designating official spokespersons.

A single spokesperson should be designated to communicate with the media usually the Superintendent or building principal. Staff and student contacts with the media should be discouraged. Staff and members of the Board of Education should be trained to refer media to the designated spokesperson, while using the "no comment" response to any questions. No media is permitted access to students or staff on school grounds.

Staff training.

Each staff member should be provided a copy of the crisis response plan. The Principal should provide staff with an annual review of the plan's procedures at a faculty meeting. Staff training in areas such as verbal de-escalation techniques and techniques for handling physically aggressive students may also be valuable.

APPENDIX B
Interim Alternative Educational Setting (IAES)
Referral Form

Department of Exceptional Education
Interim Alternative Education Setting

Matric	Student Name (Last, First, M.I.)	Birthdate	Sex	Grade	Ethnic Code

Address of Parent/Foster Parent/Group Home (circle one)	Parent/Guardian/Surrogate	Home Phone

Primary Language of Home Other than English Yes No Specify:	Language of Instruction for Goals and Objectives	Language Assessment:	Date:	Score:	E	S	District Resident ( ) yes ( ) no District of Residence
		Reading:					
		Math:					
		Oral Lang:					

Home School	Date of MDC/IEP	Anticipated Duration of IEP	*Anticipated Return*	Special Education Primary Eligibility (no abbreviations)
		_____ mo/day/year to _____ mo/day/year	_____ mo/day/year	

Due to _____'s suspension/expulsion and during the term of that suspension/expulsion.
Student's Name

Special Education and related services will be provided as follows:

Specialized Instruction to meet IEP Goals and Objectives will be provided in the following areas:

- ☐ Reading Instruction
- ☐ Written Expression
- ☐ Math Instruction
- ☐ Social Studies/Science/Health
- ☐ Functional Academics
- ☐ Communication Skills
- ☐ Vocational/Transition
- ☐ Behavior Skills
- ☐ Social/Emotional Skills
- ☐ Motor Skills
- ☐ Self-Help
- ☐ Other:_____

Total number of minutes per week _____

Program Description:

_____
_____
_____
_____
_____

Educationally Relevant Related Services as described on IEP:

_____
_____
_____
_____

Total number of minutes per week _____

Manifestation Decision:

Date:_____

Suspension related to disability - **Yes** **No**

Behavior Plan*(if applicable) - attach*

- ☐ developed
- ☐ reviewed
- ☐ revised

Interventions ; Program Modifications

_____
_____
_____
_____

ATTENDANCE

The following persons, as indicated by their signatures, participated in this meeting:

Position/Relation to Student	*Signature*	*Date (Month/Day/Year)*
District Representative		
Teacher (General Ed)		
Teacher (Special Ed)		
Student		
Parent(s)		
Other		

I have received a copy of my child's Interim Alternative Education Setting and I understand that this copy constitutes written notice of the program changes. Initials of Parent ____ *OR* **Date Sent to Parent** ____ **by** ____

Distribution: WHITE - Service Center. YELLOW - Parent. PINK - Cumulative File. GOLDENROD - Special Education Teacher

APPENDIX C

FUNCTIONAL ANALYSIS SUMMARY FORM (ILLINOIS)

Student: _____ Date: _____

School: _____ Grade: _____

Participants in functional analysis: _____

_____

1. Describe the target behavior of concern (please use language that is as specific and behavioral as possible). Include a description of the intensity, frequency, and duration of behavior.

2. Provide a detailed description of settings in which the behavior occurs (e.g., physical setting, time of day, persons involved).

3. Describe the observed antecedents of behavior.

4. Describe the consequences of the behavior.

5. Describe any other environmental conditions that may affect the behavior (e.g., medication, medical conditions, sleep, diet, schedule, social factors).

6. Describe the communicative/functional intent of the target behavior.

7. Describe environmental modifications made in an attempt to change the target behavior.

8. Describe behaviors that could serve as a functional alternative to the target behavior.

APPENDIX D

PROGRAM PLANNING

BEHAVIORAL MANAGEMENT PLAN SUMMARY FORM (ILLINOIS)

Student: _____ Date: _____
School: _____ Grade: _____
Individual completing report: _____

Members participating in development of plan (including parents)

_____

_____

_____

1. Summary of functional analysis findings (attach report/form).

2. Describe previous interventions attempted.

3. Describe interventions to develop or strengthen alternative, more appropriate behaviors.

4. Describe restrictive intervention procedures to be used.

5. Describe personnel involved in interventions and their respective roles.

6. Describe data collection procedures and other methods of monitoring interventions.

7. Describe anticipated behavior changes.

8. Describe methods and criteria for evaluation of the interventions. Indicate schedule for review of intervention effectiveness.

9. Describe provisions for coordinating intervention efforts with the student's parents or guardian.

Approved by IEP team representative: _____ Date: _____

APPENDIX D-1:

BEHAVIOR INTERVENTION/EVALUATION SUPPORT

TIME-OUT ROOM REPORT FORM (ILLINOIS)

Student:_____ Date: _____

School:_____ Grade: _____

Individual completing report:

_____

Time In:_____ Time Out:_____ (not to exceed 1 hour)

1. Reason for placement in time-out room:

2. Interventions used prior to use of time-out room:

3. Indicate school personnel who provided continuous monitoring of student while in time-out room. Describe student's behavior while in time-out room:

4. Describe student's behavior following use of time-out room:

5. Describe student behaviors required in order to avoid a recurrence of the problem(s) that led to use of the time-out room (must be reviewed with student):

6. Describe any follow-up actions taken or required:

APPENDIX D-2:

BEHAVIOR INTERVENTION/EVALUATION SUPPORT

EMERGENCY REPORT FORM (ILLINOIS)

Student:_____ Date: _____

School:_____ Grade: _____

Individual completing report:

_____

Date/Time of incident:

_____

1. Provide a detailed description of the incident that required emergency intervention, including location, events, and participants.

2. Provide a detailed description of the emergency intervention used, including all staff involved.

3. Describe any injuries and/or property damage.

4. Describe any previous incident(s) leading to present event (include dates, if possible).

5. Describe any interventions attempted prior to the incident.

6. Describe the student's response to the emergency intervention.

7. Recommendations for avoiding similar incidents in the future.

APPENDIX D-3:
BEHAVIOR INTERVENTION/EVALUATION SUPPORT

Designation of Behavioral Interventions by Level of Restrictiveness (Illinois)

Provided below is an alphabetized, nonexhaustive list of behavioral interventions according to four levels of restrictiveness: nonrestrictive, restrictive, highly restrictive, and prohibited.

Interventions listed as **nonrestrictive** are preferred, when appropriate, because of the low risk of negative side effects and the high priority placed on positive behavior change rather than behavior control. These interventions may be used without the development of a written behavioral management plan or inclusion in the student's IEP. A best practices approach to the implementation of any behavioral intervention, however, involves a functional analysis of the behavior of concern, careful planning and monitoring of the intervention procedures, and systematic evaluation of intervention outcomes. The use of positive and nonaversive interventions should be given the highest priority and directed at the development of positive student behaviors.

Nonrestrictive Interventions

- Allowing student to escape task
- Calling/notifying parent
- Contingent exercise*
- Differential reinforcement
- Direct instruction
- Environmental/activity modification
- Extinction*
- Instructional assignment
- Modeling
- Peer involvement
- Planned ignoring
- Positive practice/overcorrection*
- Positive reinforcement (individual or group)
- Prompting
- Proximity control
- Punishment writing*
- Redirecting student (physically)*
- Redirecting student (verbal, nonverbal signal)
- Response-cost
- Restitutional overcorrection*
- Self-management
- Shaping
- Teaching alternative behaviors
- Teaching self-reinforcement
- Time-out (exclusionary/physical)*

- Time-out (non-exclusionary)*
- Token economy
- Verbal feedback
- Verbal reprimand

* Depending upon the student's needs, IEP, etc., these interventions may be restrictive in nature. With extensive use, these interventions may become restrictive in nature. Additionally, if they adversely affect student learning or extreme negative behaviors occur in response to them, they could be considered restrictive interventions. Under these circumstances, all precautions (e.g., documentation) associated with a restrictive intervention should be followed.

Interventions listed as **restrictive** may be appropriate during emergency situations or when less restrictive interventions have been attempted and failed. Restrictive interventions include aversive and deprivation procedures that are associated with a higher risk of negative side effects. Therefore, greater caution should be exercised in their use. Restrictive interventions should be used only after a functional analysis of behavior has been completed and documented, a behavioral management plan written, and appropriate modification of the student's IEP completed. Except in emergencies, restrictive interventions shall be used only when less restrictive interventions have been attempted unsuccessfully. Additionally, restrictive interventions shall be used for the minimum amount of time necessary to control the individual's behavior, shall be used in conjunction with positive interventions designed to strengthen competing behaviors, and shall be replaced by less restrictive procedures as quickly as possible.

Restrictive Interventions

- Detention (before/after school, weekend)
- Exclusion from extracurricular activities
- Food delay
- Forced physical guidance
- Inhibiting devices
- Manual restraint
- Negative practice
- Satiation
- Suspension (in-school)
- Suspension (out-of-school)
- Time-out (isolation/quiet room)

Interventions listed as **highly restrictive** are deemed inappropriate in most circumstances.

APPENDIX D-3 (Cont'd):
BEHAVIOR INTERVENTION/EVALUATION SUPPORT

Highly Restrictive Interventions

- Aversive mists, aromatics, tastes
- Denial or restriction of access to regularly used equipment/devices that facilitate the student's educational functioning, except when such equipment is temporarily at risk for damage
- Mechanical restraints (excludes restraints prescribed by physician or used as a safety procedure for transportation)
- Expulsion with continuing education program

Interventions listed as **prohibited** are illegal.

Prohibited Interventions

- Corporal punishment (Refer to **Appendix A** for statute.)
- Expulsion with cessation of services
- Faradic skin shock
- Physical manipulation or procedure that causes pain and/or tissue damage when used as an aversive procedure

APPENDIX D-4:

BEHAVIOR INTERVENTION/EVALUATION SUPPORT

RESTRICTIVE BEHAVIORAL INTERVENTIONS
PARENT NOTIFICATION FORM (ILLINOIS)

Student:_____ Date: _____

School:_____ Grade: _____

1. Target behavior(s) of concern:

2. Replacement behavior(s):

3. Previous interventions attempted:

4. Detailed description of intervention(s) to be used (including personnel involved, procedures used, data collection and monitoring procedures):

5. Interventions to develop or strengthen alternative, more appropriate behaviors:

6. Measurable behavior changes expected and method(s) of evaluation:

7. Schedule for review and evaluation of intervention effectiveness:

8. Description of potential risks:

9. Provisions for coordinating with the home:

_____ _____
Parent/Guardian Date

_____ _____
School Representative Date

APPENDIX D-5-1
PROGRAM PLANNING

IEP Addendum

Sample Individual Behavior Management Plan

(From: Eric P. Hartwig and Gary M. Ruesch, "Discipline in the Schools," LRP Publications, Horsham, PA)

Description of Problem:
Antecedent noncompliant behaviors — refusal to comply to reasonable requests, talking out loud. Aggressive, assaultive and/or destructive behaviors — actions which have the potential of harming self, others or property (hitting, kicking, tipping over desk, etc.).

Disruptive behaviors —behavior that disrupts, or irritates others and/or interferes with normal classroom activities (swearing, talking out, etc.).

Frequency, Duration and/or Intensity:
Noncompliant and disruptive behaviors occur numerous times per class period. Physical aggression resulting in removal from the school setting has occurred 4 times in a month period.

Identified Antecedents:
Behaviors such as talking out, off-task behavior, refusing to open book, etc. have the potential of leading to more disruptive and aggressive behaviors if not dealt with immediately.

Goal:
To eliminate disruptive, aggressive and noncompliant behaviors that interfere with Eric Paul's opportunity to acquire and produce academic skills.

Plan:

Techniques, consequences, actions, services, programming options, etc., to be implemented.	Staff/Agency Responsible	Data Collection/ Schedule
I. Classroom Management Plan — Eric Paul is expected to adhere to the following classroom rules:	Reg. Ed. & EEN teachers	Daily behavior documented
A. Respect self and others (i.e., wait turn, acknowledge compliance requests, use polite language and actions).		

APPENDIX D-5-2
PROGRAM PLANNING

Plan: (continued)	Staff/Agency Responsible	Data Collection/ Schedule
B. Respect of property (i.e., use materials in an appropriate manner).		
C. Stay on-task (i.e., follow through on tasks and assignments, follow along in book, participate).		
D. Follow teacher directions (i.e., raise hand, sit in seat, follow without comment.		
Positive reinforcement contingencies for a series of successful classes will be provided on an intermittent basis. Reinforcements will include free time, library time, gym time and other acceptable activities defined by the teacher and the student (See Contingency Contract).		
If one of the rules is violated, a warning is given with a concrete explanation of what behavior was unacceptable with a prompt of the expected behavior for the immediate situation. If the warning is sufficient, class time may continue with reinforcement and acknowledgment for acceptable behavior.		
If after the warning Eric Paul continues to be noncompliant, a time-out procedure will be instituted in the class. A 5 minute removal with a contingent behavior release dependent on acceptable behavior will be utilized (See Time-out steps).	Reg. Ed. and EEN teachers	Date, time, duration, incident and precipitating behavior will be documentated
If Eric Paul continues to be noncompliant, removal from the room to in-school suspension will be initiated. Supervision and instructional activities will be provided. Removal will be for the remainder of the class period in which the incident occurred plus the next class period.	Mr. Johnson, Principal	In-school suspension documented.

APPENDIX D-5-3
PROGRAM PLANNING

Plan: (continued)	Staff/Agency Responsible	Data Collection Schedule
The classroom teacher will, within the same day the incident occurred, attempt to resolve the conflict through directed conversation with Eric Paul to insure he understands the behavioral expectations for the class and to analyze alternative, more acceptable methods for dealing with the incident.	Classroom Teacher	
Should a pattern of behavior problems continue (2 consecutive days of in-school suspension) the IEP team will reconvene to consider modifications of intervention techniques, alternative programs, or other related services as appropriate.	IEP Committee	IEP meeting minutes
II. Managing Aggressive/Assaultive Behaviors — Any behaviors which have the potential of harming self or others.	District Policy Suspension	Reconvene IEP Committee
A. Antecedent behaviors that have the potential of leading to aggressive behaviors need to be dealt with immediately. Teachers have been instructed not to touch Eric Paul or to engage in any verbal argument. If Eric Paul refuses to correct his behavior after being told to do so, they are to notify the office. Eric Paul will be directed to go to the principal's office. If he refuses, the principal and/or designee(s) will escort Eric Paul to the office.		
B. Eric Paul's parents will be called to remove him from school for the remainder of the day. Prior to leaving school, Eric Paul's behavior will be discussed with his parents with Eric Paul present.	Mr. Johnson, Principal	Instances and parent contacts documented

APPENDIX D-5-4
PROGRAM PLANNING

Plan: (continued)	Staff/Agency Responsible	Data Collection Schedule
C. If the parents cannot be reached, the police will be called. Police officer Ruesch will be called first. If unavailable, Captain Eastwood or the Shift Commander will be contacted. If there is an emergency, the school will call 911. One of the following things could happen.	Mr. Johnson,	Document phone contacts
1. law enforcement will determine if they can intervene directly by considering the severity of the act.	Law Enforcement	
2. law enforcement may contact and involve Human Social Services as appropriate.		
D. Any physical aggression towards self, other students or staff members that may cause potential injury or results in bodily harm will result in significant disciplinary action including out of school suspension and contact with the police. Behaviors include hitting, biting, throwing objects, weapon possession, etc.		
1. Eric Paul will be suspended for for 3 days.	Suspension Policy	
2. On returning to school, Eric Paul and his parents will meet with the IEP committee on the 3rd day to discuss behavior and potential solutions and programmatic alternatives. Further evaluation and additional resource information will be attended to at that time.		IEP Committee

APPENDIX D-5-5
PROGRAM PLANNING

Plan: (continued)	Staff/Agency Responsible	Data Collection/ Schedule
III. Reinforcement Contingencies for Positive Behavior.		
Eric Paul's behavior will be analyzed each class period by each teacher. In addition to verbal reinforcement, the following reinforcement plan will be implemented:	Classroom	Daily behavior documented
A. During 8th hour of each day if Eric Paul does not exhibit antecedent or aggressive behavior, he will be allowed to select reinforcement activities including computer time, swimming, gym time, etc.	ED Teacher	
B. After 5 consecutive days if no targeted behaviors have been exhibited, early release from school will be arranged for 2 hours on one school day.		
C. After 4 weeks of no targeted behavior and 4 earned early release times, Eric Paul will earn 4 additional hours of release time.		
IV. The above plan was developed with Eric Paul and his parents on February 11, 1994.		

IEP meeting participants present:

Name/Title	Name/Title
Name/Title	Name/Title
Student Signature	Date
Parent Signature	Date

APPENDIX E-1

MANIFESTATION DETERMINATION

IEP Team Meeting to Determine the Relationship of a Problem Behavior to the Student's Disability

Student Name:_____ School:_____ IEP date: __/__/__

Record #:_____ Disability:_____Date of Most Recent Evaluation:__/__/__

Description of Specific Problem Behavior:
State purpose of meeting and review parental rights. Then discuss the following questions, check the IEP Team responses and record detailed summary of discussion on Conference Summary Report. Attach this form to Conference Summary Report.

1. Is the most recent evaluation current, comprehensive and relevant to specific problem behavior? ❑ yes ❑ no - if no, conduct re-evaluation. (School staff should review evaluation prior to meeting).

2. Is there an unusual school or current life circumstance event that precipitated this behavior?
   ❑ yes ❑ no

3. Is the present IEP or 504 Plan current, complete and responsive to evaluation information and problem behavior? ❑ yes ❑ no - if no, develop new IEP or 504 Plan and continue present placement.

4. Is the present IEP or 504 Plan being appropriately implemented? ❑ yes ❑ no - if no, begin appropriate implementation.

5. Should the IEP or 504 Plan be modified/changed in order to more appropriately address the problem behavior? ❑ yes - if yes, make the changes and then determine placement in the least restrictive environment ❑ no

6. Is the problem behavior a manifestation of the disability? 1) Review the behavior characteristics common to the disability, 2) consider evaluation information that may describe specific behaviors and recommend interventions, and 3) discuss steps taken by the school to address the problem behavior. Record this information in detail on the Conference Summary Report.

IEP Team Decision

• **The specific problem behavior is a manifestation of the student's disability.** Significant change in placement, including suspensions beyond the 10 day limit.

may occur only with informed parent consent. If a parent disagrees with the proposed placement change, the school may consider seeking a temporary exclusion from state or federal court.

• **The specific problem behavior is <u>not</u> a manifestation of the student's disability.**
Significant change in placement, including suspensions beyond the 10 day limit may occur. If expulsion occurs, alternative educational services must continue under IEP. If a parent disagrees and wishes to stop the proposed action, parent must request a due process hearing within 10 school days of the proposed action. In this event, "stay-put" requires that the school continue the original placement pending due process proceedings. "Stay-put" can be avoided by a temporary exclusion order from state or federal court.

APPENDIX E-2

MANIFESTATION DETERMINATION

Worksheet for Manifestation Determination

Student's Name:_____Date_____

Eligible for IDEA services? If YES, list qualifying disability: _____
If NO, list Section 504/ADA impairment: _____

Evaluation/placement team members (by name and role):

_____

_____

_____

Sources of information:

___ Assessment/evaluations (attach assessments and summaries)
___ Diagnostic information (attach results)
___ Interviews conducted (attach summaries)
___ Direct observations (attach summaries)

Description of act of misconduct (include all relevant details):

Description of proposed disciplinary action:

Does the proposed disciplinary action constitute a change of placement (e.g., more than 10 consecutive days)? If NO, proceed with disciplinary action. If YES, consider the following factors in making a manifestation determination:

A: Nature of the disability

1. What is the student's disability (including its behavioral characteristics and specific severity)?

2. What major life functions are impacted? Include a description of how the disability impedes academic and/or social performance.

3. To what extent are those major life areas impacted? Include a description of the student's strengths, deficits, and coping/compensating strategies.

4. To what extent, if any, does the student's disability preclude him or her from having the capacity to know that engaging in the behavior was wrongful (including any acknowledgment and provision in the current IEP)?

APPENDIX E-3
MANIFESTATION DETERMINATION (Cont'd)

5. To what extent, if any, does the student's disability impair his or her awareness and understanding of the impact and consequences of such behavior?

B. Review of disciplinary records

1. What is the behavioral history of the student (including severity, setting, and frequency)?

2. What is the history of behavioral interventions? Include a description of how long the behavior has been occurring untreated, settings where interventions have been applied, and results of the behavioral techniques employed to date.

3. Did the student exhibit similar behavior in the past that was attributable to the disability? If so, provide the approximate date(s), specific behavior, and resulting intervention and discipline.

C. Role of Impulsivity

1. To what extent, if any, does the disability impair the student's behavioral controls? Include a description of specific characteristics related to the disability and the student's ability to consider long range consequences before acting.

2. To what extent, if any, does the student's behavioral repertoire demonstrate a pattern of impulsivity?

3. What are the discrepancies between the student's behavior in the home setting and the school setting?

4. To what extent, if any, are the current and previous act(s) of misconduct related to impulsivity?

In sum, based on these factors, is there a requisite nexus between the misconduct and the disability?

If NO, discipline the student using procedures applicable to nondisabled students (except that under the IDEA, educational services may not cease).
If YES, re-evaluate the student's IEP, including the appropriateness of the placement.

APPENDIX F-1
DECISION-MAKING
REFERENCE MATERIALS

Questions and Issues to Consider BEFORE Excluding a Student with Behavioral Challenges from the Regular Classroom or School
A Guide for Educators, Families and Students

(Vermont Statewide BEST Team, Vermont Department of Education, Montpelier, VT)

The following guide has been developed to assist educators, families and students in ensuring that placement of a student (who exhibits behavioral challenges) in a learning environment outside the regular education setting for any length of time or the use of any exclusionary practice is warranted and required. Educators, families and students should discuss the answers to the subsequent questions/issues together.

It is critical to remember that a student should only be excluded from the regular learning environment if his/her needs cannot be fulfilled when provided with supplemental supports and aids. Students should not be denied access to the regular classroom based on categorical disability labels, his/her needs for individualized curriculum and/or instruction within the regular classroom or his/her needs for specialized supports.

1. Has the student's present levels of performance and needs been assessed, evaluated and clearly identified relative to:
   A. Academic or educational outcomes and learning characteristics;
   B. Social development;
   C. Physical development?
2. Have the student's educational needs been clearly delineated prior to determining the least restrictive placement for the student?
3. Have needed accommodations been considered (e.g., curriculum and environmental modifications) to enable the student to access and benefit from instruction within the regular education setting?
4. Can supplementary aids and services be provided in the regular education setting?
5. Is an individual plan (i.e., special education, 504) in place? Are the accommodations being carried out?
6. What educational accommodations have been made to help the student develop positive social skills?
7. Are there unique benefits, social, academic or otherwise, which the student will receive by remaining in the regular education setting?
8. Has the team considered the student's health and medication needs?
9. Are there particular, regular educational settings and/or situations in which the student is more successful? How can you capitalize on these factors?
10. What kind of training have you received in the use of positive behavior management and discipline techniques?

APPENDIX F-1 (Cont'd.)
DECISION-MAKING
REFERENCE MATERIALS

11. What assessments have been utilized to determine factors across environments that are currently or historically contributing to the student's behavior?
12. What support are staff and family members receiving to help them cope with the stress factors associated with the student?
13. Will the student's placement in the regular education setting (even with or because of the use of supplementary aids and services) impair the education of other students taking into consideration:
    A. Level/frequency of disruptive behavior;
    B. Teacher time devoted to meeting the student's needs at the expense of other students;
    C. Need for extreme curriculum modifications?
14. If the answer to question #13 above is "yes," then what can be done to lessen or eliminate the impairment of others?
15. Will other students benefit from the student's placement in the regular education setting?
16. Does your school have a policy governing the placement of students outside the regular education setting?
17. Have you assessed the effectiveness of the interventions which have already been implemented?
18. Is there a crisis response/helping team for the student and/or the school? Who is on it?
19. Has the student and his/her family or advocate been involved in the placement decision-making process and plan development in an ongoing fashion?
20. Does the student and his/her family or advocate freely support placement outside the regular education setting?
21. Has the team maximized the use of outside resources (e.g., mental health, SRS, alcohol and drug services)?
22. Why do you think the student behaves as s/he does? (e.g., Is the student experiencing great stress that you are aware of?)
23. What have you tried to prevent the need for excluding the student from the regular education setting?
24. What do you want to have happen for this student?

APPENDIX F-2
DECISION-MAKING
REFERENCE MATERIALS

Checklist: To be Followed Prior to the Expulsion ofa Student with a Disability (From: Eric P. Hartwig, 1995 Workshop Handout, Vermont School Administrators Conference)

The following is a checklist for such procedures and considerations to be followed prior to the expulsion of a student with a disability:

a. Determine if there is a need to consider an emergency or immediate interim placement for a student who is a danger to self or others.
b. Prior to any change in placement:

1. Organize the multidisciplinary team or other group of trained and knowledgeable staff to make the following determinations:

* Is student's current placement appropriate? If Yes, is the unacceptable conduct caused by the inappropriate placement?
** Is conduct caused by the student's disability?
*** If the answer to any of the above is Yes, then how should the IEP/accommodation plan be modified? Should it include a disciplinary plan or require a change in placement?
**** Are any additional evaluations necessary to make the above determinations?

2. Prepare a notice of expulsion which includes a description of the change in placement and which meets the requirements of the IDEA or Section 504.
3. Schedule a meeting with all team participants (including parents of the student being considered for expulsion) to prepare a written report.
4. Provide for additional evaluation or independent evaluation of the student if past evaluations are inadequate or out-of-date.

c. Modify existing disciplinary procedures:
1. Incorporate the new report of the multidisciplinary team and its recommendations.
2. Interview additional witnesses or representatives to address the student's disability and educational needs.

d. Modify the disciplinary determination:
    1. Prepare a finding based on the multidisciplinary teams' report - accept, modify, or reject its recommendations.
    2. Delay implementation of expulsion order pending the parents' opportunity to appeal (at least ten days).
    3. Determine if provision of alternative education program is consistent with discipline and the student's needs.

References: 34 C.F.R. Sections 300.345, 104.35, Letter to Steinke, 13 EHLR 213:179 (OSEP 1988), Letter to Boggus

APPENDIX F-3
DECISION MAKING
LEGAL REFERENCE MATERIALS

CASES FINDING A RELATIONSHIP BETWEEN A STUDENT'S DISABILITY AND THE STUDENT'S DISRUPTIVE BEHAVIOR

[Unpublished Case Name, No. SE-89985], 16 EHLR 207 (Admin. Rev., Ca. 1989).

Facts: The local school district sought to expel a 14 year old learning disabled student for possessing marijuana. The student obtained the marijuana in class from another student who threw him a closed bag from across the room. Not knowing the contents of the bag, the student caught the bag, placed it inside his clothing and went to the restroom. Inside the restroom, he opened the bag and discovered that it contained marijuana. The student kept the marijuana "because he thought he would get busted."

The student sought to terminate expulsion proceedings, claiming that his misconduct was a direct manifestation of his handicapping condition. The evidence established that the student had an attention deficit disorder and poor judgment.

Issue: Under the California Education Code, may the school district expel the student for his misconduct?

Held: No, because the misconduct was related to his disability.

Rationale: In determining the relationship between misconduct and a disability, the school district must of necessity go beyond looking at the student's "identified handicap." Under the California Education Code, the district must base its decision on recent and relevant information about the student, including the student's ability to conform his behavior to the prescribed standards. Specifically, the district must determine whether the student's disability "impacted on his behavior, discipline and/or emotional condition at the time of the misconduct," and "whether the misconduct was caused by or was a direct manifestation of the pupil's handicapping condition, as manifested in its potentially expanded form at the time of the misconduct."

Here, the hearing officer determined that the student's attention difficulties, together with the recent and relevant evidence of poor judgment and impulsivity, impacted on his decision-making process and, in turn, caused his misconduct.

[Unpublished Case Name, No. 230], EHLR 508:110 (Admin. Rev., Ind. 1986).

Facts: The local school district sought to expel a 15 year old emotionally disturbed student for the possession and transmission of marijuana on school property.

Psychologist's reports indicated that the student was functioning in the borderline mentally handicapped range. The student was described as demanding, impulsive, having nervous habits, possessing poor judgment, displaying immature behavior, and being upset when not the center of attention. He had difficulty managing emotional responses. His intellectual functioning negatively impacted his adjustment and self-concept.

A licensed psychologist testified at the hearing that the student's handicap did not have a casual relationship to his misconduct, although the handicap and misconduct were correlated. The psychologist indicated that the student was impulsive, but knew right from wrong. The student was not a psychotic or sociopathic.

The student's teacher believed that the student wanted to impress peers by bringing marijuana to school. The teacher stated that the student's behavior ranged from being extremely helpful to bizarre and inappropriate. He was easily provoked and manipulated by others.

A licensed clinical social worker described the student as having poor relationships because of his behavior and his poor ability to retain information. The social worker felt that the handicap and misconduct were related because the student had a strong need for recognition and a sense of belonging.

Issue: Was there a causal relationship between the handicap and the "misconduct"?

Held: Yes.

Rationale: (1) The proper standard to use when looking for a casual relationship between the misconduct and handicap is "whether a handicapped student's propensity to disrupt is caused by his handicap."

(2) Here, the Board was convinced that the misconduct was related to the student's poor self-esteem, which was a component of his handicap.

<u>Garrison Independent School District</u>, 16 EHLR 262 (Admin. Rev., Tex. 1989)

Facts: Moderately mentally retarded sixteen year old was placed in a program that was primarily academic, despite her lack of reading skills. Although she had been docile and polite while enrolled in a non-academic program, she soon

became a discipline problem in the academic program. The school later attempted to place her in a vocational program, where the students were lower functioning, but the student went home crying because she felt she could function at a higher level. When the parents complained, the school put her back into the academic classes, even though the school had doubts about the appropriateness of the class and the IEP. Soon thereafter, the student disrupted class by talking loudly to other students, making rude comments to the teacher, and refusing to do her work. She was defiant to the principal and, when the teacher and the principal attempted to remove the student from class, struck the principal. The school determined that the misconduct was not related to her handicapping condition and recommended a long-term suspension, changing the student's placement to a homebound program. Her IEP goal was that she would "be able to return to school with a positive attitude toward learning in the school environment.

Issue: Was the misconduct related to the student's handicap?

Answer: Yes.

Rationale: (1) The student's "increasing disruptiveness and rudeness in the class were a result of her sense of helplessness, powerlessness and frustration as a response to her persistent inability to learn given instructional materials with which she was provided." Her expressions of frustration should have been better read by the school system.

(2) Expert testimony implied that the school was partially responsible for causing the behavior. The IEP was inappropriate because the student had no reading skills and was placed in primarily academic classes. Her failure to learn caused low self-esteem, frustration, and a sense of helplessness. She was placed in an atmosphere of increasing tension, where she felt humiliated and degraded. Her explosion and aggressive behaviors were a reaction to that continuing situation.

Newport-Mesa Unified School District, EHLR 508:263 (Admin. Rev., Ca. 1986)

Facts: The student was a 14 year old male with average to above average grades. He functioned intellectually within the average to high average range but was eligible for special education as a learning-handicapped pupil "because of attention deficit, impulsivity, and a discrepancy in classroom performance." He had demonstrated deficits in visual attention tasks, as well as problem-solving tasks. He had a history of behavioral problems and was characterized as being depressed, angry and impulsive.

The student was arrested for selling a controlled substance to a police informant on the school campus. He was placed on long-term suspension.

An IEP meeting was held, which concluded that student's conduct was not a manifestation of, or caused by, his handicap. The parents contested this decision.

Issue: Was the student's misconduct a manifestation of his handicapping condition?

Held: Yes.

Rationale: The IEP Team must perform three tasks when determining a relationship exists between a student's handicap and his misconduct:

(1) Recognize the student's previously identified disability;

(2) Determine whether that disability impacted on the pupil's behavior, discipline, and/or emotional condition at the time of the misconduct; and

(3) Determine whether the misconduct "was caused by or was a direct manifestation of the pupil's handicapping condition, as manifested in its potentially expanded form at the time of the misconduct".

In this case, there was substantial evidence that the student was seriously emotionally disturbed and had difficulty developing and maintaining friendships. He was impulsive and had problems with self-control. Most importantly, there was direct testimony from a psychologist that the student's sale of the controlled substance was a manifestation of his disability.

School Board of Prince William County v. Malone, 762 F.2d 1210 (4th Cir.1985)

Facts: J.M. had an identified learning disability, consisting of a "problem in language processing, [which] impaired his ability to comprehend and analyze written and oral expression." One IEP goal was to help J.M. "obey school rules."

J.M. was suspended for serving as a go-between for two non-disabled students in their purchase of speed on three occasions. He did not receive any money and did not use any of the drugs.

The principal recommended expulsion. The Screening Committee met and determined that there was no casual relationship between J.M's learning disability and his "drug deals." A hearing officer ruled however, that there was a casual connection, and J.M. could not be expelled.

Issue: Was the student's disability casually related to his misconduct?

Held: Yes.

Rationale: (1) The proper test is "whether the behavior for which the student was

expelled was caused in some way by his handicap."

(2) The court found that a direct result of J.M.'s learning disability was a loss of self-image and an awareness of a lack of peer approval. He was ostracized from his peer group, and his emotional disturbances made him particularly susceptible to peer pressure. Under those circumstances, he jumped at a chance for peer approval and was a ready "stooge to be set up by peers engaged in drug trafficking".

(3) While J.M. probably understood that involvement with drugs was wrong, his learning disability "prevented him from comprehension of giving long term consideration to the consequences of his actions."

CASES FINDING NO RELATIONSHIP BETWEEN THE DISABILITY AND THE STUDENT'S MISBEHAVIOR

Elk Grove Unified School District, 16 EHLR 622 (Admin. Rev., Ca. 1989)

Facts: Student was an 11 year old mildly learning disabled boy who was expelled from school for shooting at a school bus full of students with a compression crossbow, a dangerous weapon. The student's learning disability was in the area of visual motor perception, resulting in difficulty with fine motor and visual motor coordination, and poor handwriting and reading. The cross bow incident occurred in the second day of school. On the first day of school, petitioner had been sent to the principal's office, had used profanity to the office staff, thrown pebbles at the office window and left school grounds without permission. That evening, he had been beaten up by some older boys in his neighborhood. Thus, the crossbow incident was the culmination and escalation of a number of problems.

The hearing officer found that "the dynamic of the student's family has contributed to the on-going nature of his behavior problems. However well-intentioned they may have been, his family has failed to hold [him] accountable for his behavior, has had difficulty setting and enforcing limits, has looked largely to external factors in explaining and excusing Petitioner's behaviors and have not conveyed to Petitioner that there is a 'bottom line.'"

Issue: Was petitioner's misconduct causally related to his disability?

Answer: No.

Rationale: The student's learning disability was mild. Although the learning disability impacted his school performance, it did not impair his ability to behave in the classroom. Mainly, the student's family dynamic contributed to the

misconduct.

Orinda Union School District/Contra County Consortium, EHLR 507:199 (Admin. Rev., Ca. 1985).

Facts: Respondent and two other students attacked another student they did not like. They forced him to walk over to a metal pole, lifted him from the ground, spread his legs apart and pulled him into the pole so that his groin struck the pole (a practice called "poling"). Respondent voluntarily and actively participated in the poling, which he knew would harm the other student. While it was unclear whether the respondent instigated the incident, it was clear that he intended for it to happen.

Respondent was learning disabled, with a problem that centered around a "language processing and memory problem." He had difficulty with spelling, reading, and math due to trouble remembering patterns, trouble with confusing letters, difficulty with facts, and trouble assimilating longer sentences.

The respondent was impulsive, but there was no evidence that he was seriously emotionally disturbed. He had a history of periodically engaging in inappropriate conduct, including misconduct in the playground and once, striking a student with tacks which were tacked to his fist.

Issue: Was the misconduct casually related to the disability?

Held: No.

Rationale: (1) Evidence presented was not persuasive that respondent's impulsivity was caused by his specific learning disability. Moreover, even if impulsivity was caused by his specific learning disability, the evidence was not persuasive that impulsivity was the cause of either respondent's history of behavior problems or his participation in the poling incident. There was no evidence of a past history of numerous and repeated behavior problems which were caused by impulsive behavior.

(2) Respondent's participation in the attack indicated poor social judgment, but there was no persuasive evidence that his poor social judgment was caused by his learning disability. There was no pervasive evidence that respondent's language processing and memory problems preclude him from knowing right from wrong in the context of "poling."

Rowland Unified School District, EHLR 508:149 (Admin. Rev., Ca. 1986).

Facts: Eleven year old learning disabled twin brothers broke into the custodial compound at their school. They spattered 10 gallons of paint on the building,

walls and patio. Graffiti and obscenities were painted on the sidewalk and on the office and patio walls.

Both students had difficulty with reading, math, the written language and long-term memory. One of the twins also had difficulty with short-term memory, oral language and ocular control. Both appeared distractible and had a low tolerance for frustration and low self-esteem. Both had a history of engaging in inappropriate behavior. Their peer relationships were poor and they displayed negative attitudes toward adult authority. Both petitioners had the cognitive capacity to know that engaging in acts of gross vandalism was unacceptable behavior and that there were consequences for such behavior.

An IEP team met and determined that petitioners' misconduct was not a manifestation of their disabilities. The twins were recommended for expulsion.

Issue: Was there a causal relationship between disability and misconduct?

Held: No.

Rationale: The State Hearing Officer ruled that the vandalism could be "somewhat related" to the boys disabilities, but was not caused by, nor was it a direct manifestation of, their specific learning disabilities. While the twins were impulsive, there was no pervasive evidence that, as a result of their learning disabilities, they were unable to control their behavior or conform it to acceptable limits. Further, the nature and extent of the vandalism was not indicative of a spontaneous act.

COURT CASES INVOLVING WEAPONS OR VIOLENT BEHAVIOR

Hacienda La Puente Unified School District of Los Angeles v. Honig, 976 F.2d 487, 19 IDELR 150 (9th Cir. 1992)

A student scared another student with a starter pistol. His school suspended him and started expulsion proceedings. The student had previously been referred for special education and was found ineligible. After the student was expelled, the parent filed for a due process hearing. The hearing officer found the student eligible as emotionally disturbed and determined that the conduct was related to his disability. The District appealed but the court found in favor of the parent, rejecting the district's claim that IDEA protections attach only after a student has been identified.

Student W. v. Puyallup School District No 331, F. 3d 1489 (9th Cir. 1994)

Parents of an emotionally disturbed student brought an action under the IDEA

challenging the district's procedures which allowed for an accumulation of more than ten days suspension during one school year. The court ruled that the ten day duration limit does not amount to a ten day total annual limit and, therefore, the district's exclusion policies, which limited cumulative suspensions to 30 days per year and which required IEP team meetings every time, did not constitute a "change of placement" and, thus, did not violate the IDEA.

Morgan v. Chris., 21 IDELR 783 (E.D. Tenn 1994)

A special education referral was made a year after the student was diagnosed as Attention Deficit Disordered (ADD) and started taking medication for the condition. The student's behavior continued to be problematic and the student was found to be eligible for special education. The IEP team then referred the student to juvenile court for his vandalism and destruction of school property. The school did not provide the prior notice of referral and the parents initiated a due process hearing on the basis that the referral to juvenile court constitutes a change of placement under the IDEA. The hearing officer ruled in favor of the parents. A court upheld the decision and ordered the district to move for dismissal of the juvenile court petition.

Light v Parkway C-2 School District; Special School District of St. Louis County, 21 IDELR 933 (8th Cir. 1994)

A multiply disabled 13 year old with moderate intellectual deficits and autism had daily incidents of disruption including injuries to students and her teacher. The school district recommended a change of placement to a more restrictive educational setting and the parents disagreed. The student then hit another student and the district suspended the student for ten days. The parents sought injunctive relief to return the student to school under the "stay put" rule. The court found the student's behavior "posed a substantial risk of injury" to herself and others and declined to lift the suspension. At the appellate level, two questions were presented by the parents:

1. In addition to risk of injury, shouldn't the school have been required to show the student truly dangerous"; and

2. Shouldn't the school have documented efforts to accommodate the student's disability before the suspension?

The Circuit Court upheld the finding of risk of injury and commented that removal was not punishment, but, citing Honig, constituted "maintaining a safe learning environment for all".

Jeffrey S. v School Board of the Riverdale School District, 21 IDELR 1164 (W.D. Wisc. 1995)

A student who had been identified as emotionally disturbed requested removal from

special education and the request was granted. A year later the student was involved in a series of aggressive acts and was suspended. The parents brought an evaluation report supporting a diagnosis of ADD and subsequently requested a due process hearing but the school district did not act upon the request. The parents sued and the court found that the previous removal of the student from special education does not change the status of the student's disability. The student was ordered to return to school.

OCR RULINGS ON DISCIPLINE

Hopewell (VA) Public Schools, 21 IDELR 189 (1994)

A student was denied readmission into school after being expelled for bringing a weapon to school. OCR found no violation of Section 504 of the Vocational Rehabilitation Act or the Americans with Disabilities Act (ADA) because:

- There had been a pre-expulsion determination that the behavior was not related to the disability; and

- The student was one of five involved in the incident and all five students received the same punishment.

Kershaw County (SC), 20 IDELR 445 (1993)

Two students were expelled for bringing mace to school. They alleged race and disability discrimination. OCR found that there was no violation due to equal application of the policy. OCR also noted that the two students were reevaluated prior to the manifestation determination and were provided with home instruction.

Bryan County (GA) School District, 20 IDELR 930 (1993)

A student with learning disabilities brought a gun to school and was referred for expulsion. The IEP team met and determined that the misbehavior was not disability related and offered homebound instruction. The parents refused the homebound instruction. OCR found no violation of Section 504 because:

The student was reevaluated prior to expulsion; and
The parents received notice and had the opportunity to participate in the meeting to decide on homebound instruction.

APPENDIX G
CONFIDENTIAL RECORDS TRANSMISSION FORMS
REFERENCE MATERIALS

SANTA FE PUBLIC SCHOOLS

610 Alta Vista Street
Santa Fe, New Mexico 87505
Telephone (505) 982-2631
Facsimile (505) 995-3300

Dr. EDWARD LEE VARGAS
Superintendent of Schools

CONFIDENTIAL
FAX TRANSMISSION

Date: _____

To: _____

Fax No. _____

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Number of pages including cover page: _____

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APPENDIX H-1
STUDENT SUCESS TEAMS
SUPPORT MATERIALS

STUDENT SUCCESS TEAM

WHAT IS IT?

The Student Success Team (SST) is part of the regular education process for assisting pupils whose parents or teachers have referred them for academic or behavior concerns. Teachers of students who are experiencing emotional, behavioral, academic or attendance problems can refer them to this group. The Student Success Team (SST) seeks viable interventions toward the student's success in school. All referrals for special education assessment, with few exceptions, will go through the Student Success Team process.

WHY DOES MY SCHOOL HAVE TO HAVE AN SST?

The law requires that all attempts have been made to modify the student's regular program prior to special education referral. The SST process is a successful model and the State priority for modification of regular education prior to special education referral and assessment.

The Santa Ana Unified School District Board of Education adopted Student Success Teams for each school as Board Policy 5001 on July 13, 1993. This was also supported, effective the same date, by Administrative Regulation 5001 which provides for Student Success Teams in operation at every school site effective in the 1993-94 school year.

WHO IS ON THE SST TEAM?

An administratror or designee, the referring teacher, parent, regular education teachers and other site resource personnel such as BRT, Title I, Outreach Consultant, Counselor, or Department Chairperson. Special education personnel (psychologist, speech specialist, nurse, RSP, SDC teachers) are consultants only when relevant to the student and are not regular members of the team.

HOW DOES MY TEAM GET TRAINING?

Contact your school site administrator or SST Facilitator(s) for information.

For District support and assistance call Student Achievement Office, 558-5622.

APPENDIX H-2
STUDENT SUCESS TEAMS
SUPPORT MATERIALS

STUDENT SUCCESS TEAM

OBJECTIVES

The Student Success Team consists of regular education staff members, including administrators, teachers, parents and students. SST will offer developmentally, linguistically and educationally correct support for students that need assistance in behavior and/or academic domains. Other team support may be provided by resource, special education or community-based persons. Opportunity for student success will be sought through team consensus toward interventions that involve school, home and student participation. SST will support rights to identification, assessment and appropriate programs for individuals with exceptional needs.

ASSESSMENT SUMMARY

Student portfolios, class and home assignments, test scores, attendance, grades, emotional, behavioral, physical and medical records may be useful in developing a better understanding of student's current function and needs.

DESCRIPTION OF ACTIVITIES

• A Student Success Team meeting will be scheduled, parents will receive a handbook, a preparation questionnaire, and a video tape. A meeting will be scheduled where specific interventions will be suggested using team and Pre-Referral Intervention Manual (PRIM) ideas for improving student success opportunities.
•Additional outside resources such as counseling may be suggested for emotional well-being.
•Services for students will also be provided by Title 1 Resources.
•Tutorial assistance
•Small/large group instruction
•Modification of assignments

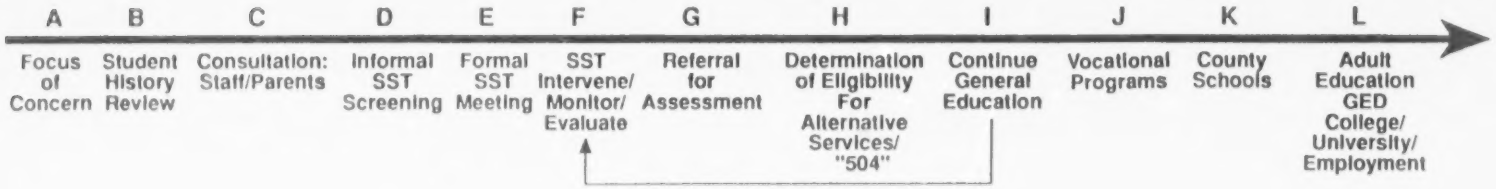
EVALUATION

•Student progress will be monitored, reviewed and documented in student SST file and in CASTS computer system.
•An SST minutes notebook will also be kept as a document of records.
•Observations, informal and formal discussions
•Parental participation

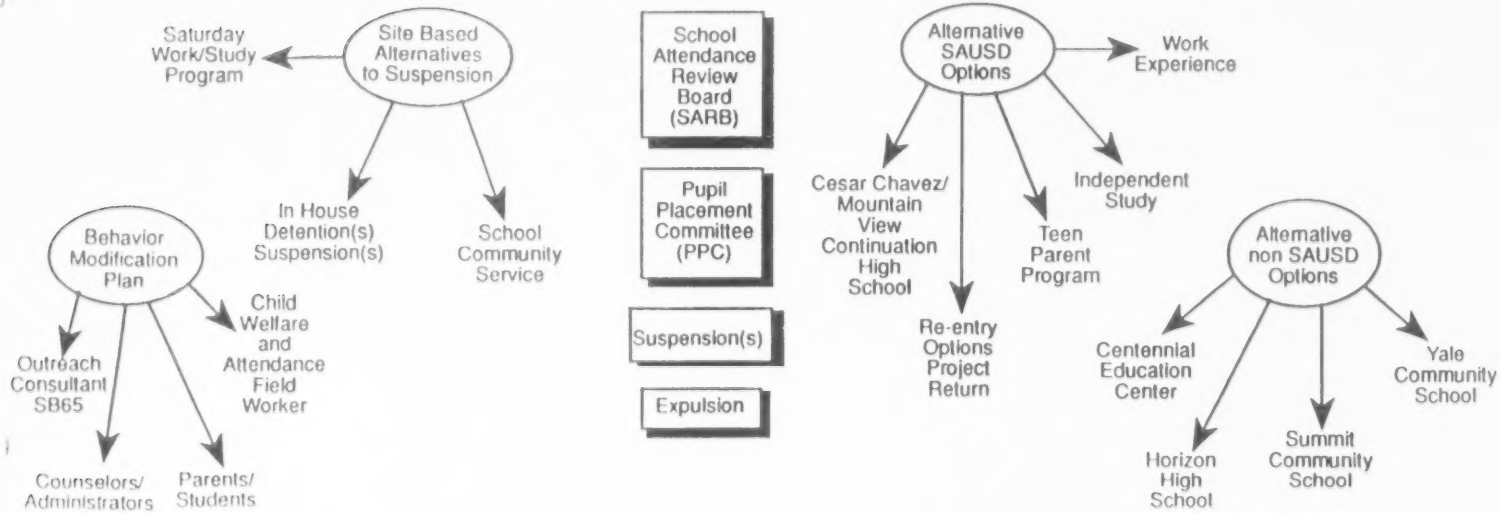
STUDENT SUCCESS TEAMS (SST)

INCREASING OPPORTUNITIES FOR STUDENT SUCCESS

I. ACADEMIC STRAND: SUCCESSFUL TRANSITION TO POST SECONDARY OPTIONS
DEVELOPMENTALLY APPROPRIATE SUPPORT SYSTEMS



II. STUDENT BEHAVIOR MANAGEMENT SYSTEMS



Sequence of suggested academic and behavior interventions or programs may vary due to student needs.

APPENDIX H-4
STUDENT SUCESS TEAMS
SUPPORT MATERIALS

STUDENT SUCCESS TEAMS (SST)
FLOW CHART FEATURES, A - L

A. FOCUS OF CONCERN: Academic levels; behavioral (student rights/responsibility); attendance; punctuality; language development & acquisition; culture & ethnicity; social/emotional issues; family; community; physical/medical; developmental milestones; GATE underachiever or unidentified gifted.

B. STUDENT HISTORY REVIEW: Cum Record File; PRC (Permanent Record Card); Discipline files (CASTS/SASI); GATE; Medical file; grades/attendance/health records, report cards, parents' interview, test scores, previous teachers and interventions.

C. CONSULTATION WITH COLLEAGUES, SUPPORT STAFF AND PARENTS:
Specialists; counselor; psychologist; BRT; administrators; nurse; SB65 Outreach; attendance field worker; RSP/SDC; mentor teacher; TESA; Migrant Education; Title I; Title IV (DATE); Title VII; Reading Recovery, HOSTS, AVID, HOTS; BABES; community based agencies; county drug abuse programs; SAFE; TUPE; DARE; PRIDE; Shortstop; Beyond Limits; (CSP) Community Service Programs, e.g. family counseling & PATH; Children's Protective Services; grade level chair; department chair; cultural experts in school or district; Independent Study alternatives for earning credits; Teen Parents; Mountain View & Cesar Chavez High School(continuation schools), AVID; EASE; PAL; CESTA; PASS; TALES; CLAVES; GATE; Star Bridge Tutors (UCI); tutoring centers (UCI/ City); Artists in the Schools; previous/other teachers; O.C. Sheriffs; S.A. Police; Probation Department; Social Worker; and parents/District Coordinator/program specialists.

D. INFORMAL SST SCREENING: Administrators, work samples, curriculum based assessment, student academic history (portfolio), parent/staff consultation (See C.). Brigance Academic and/or Language Screening in English, Spanish or both.

E. FORMAL SST: Case manager identified (usually referring teacher(s); PRIM Book for additional intervention strategies; classroom or school interventions; develop appropriate curriculum for chronological, social/emotional, academic needs; SDAIE; GATE; pro-social or behavior management plan(s); change of placement/flexible schedule options; disciplinary transfer; alternative programs; Independent Study; Mountain View; Cesar Chavez; PPC; SARB; Vocational Schools; County Schools (Horizon, Summit, Yale); Teen Parents; Community Home Education Programs, Re-entry options; Project Return; Phoenix House; Adult Education; GED; colleges & universities.

F. SST INTERVENTIONS/MONITORING/EVALUATION PROCESS: Current and ongoing status of case; Disposition; Resolution; Modifications; Continued Student Success Team support; Timelines.

G. REFERRAL FOR ASSESSMENT: Academic Achievement; Processing Skills Assessment; Language; Cognitive Potential; Adaptive Behavior Skills; Social Emotional Rating Scales, etc.

H. DETERMINATION OF ELIGIBILITY: Assessment results; "504", Remain in regular; Special Education Least Restrictive; No eligibility for special education - Continue SST support through additional and ongoing strategies (As Shown In C - F.); General education program with ongoing modifications and alternatives.

I. CONTINUE GENERAL EDUCATION; Supported by Student Success Team: Assessment results to SST; review and reconsider options; return to steps C, D, E & F on SST process.

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APPENDIX H-5
STUDENT SUCESS TEAMS
SUPPORT MATERIALS

STUDENT SUCCESS TEAMS (SST)
FLOW CHART FEATURES, A - L

J. PRE-VOCATIONAL PROGRAMS: Career Beginning; Vital Link; VEA; ROP; BEN; JTPA; KMAD; Camp Success; Weed N Seed; 2 + 2 Rancho Santiago Community College; Success Counselor.

K. COUNTY SCHOOL PROGRAMS: Horizon High School Education Centers; Summit Community School; Yale Community School.

L. ADULT EDUCATION/EMPLOYMENT: GED; college/university/employment.

Acronyms and Programs Dictionary

A.V.I.D.	Advancement Via Individual Determination
BABES	Beginning Alcohol and Addictions Basic Education Studies, K-3
B.E.N.	Business Education Network
B.R.T.	Bilingual Resource Teacher
Beyond Limits	Prevention/intervention for at risk youth; intensive workshops/wilderness
CASTS	A computer system used throughout the district for student data.
C.E.S.T.A.	Continuing English, Spanish, & Technology Acquisition
C.L.A.V.E.S.	Computer Literacy Acquisition Via Educational Strategies
D.A.R.E.	Drug Abuse Resistance Education
D.A.T.E.	Drug, Alcohol, Tobacco Education, now Title IV Drug Free and Safe Schools
E.A.S.E.	English Acquisition in Secondary Education
G.A.T.E.	Gifted and Talented Education
G.E.D.	General Education Diploma
H.O.S.T.S.	Helping One Student to Succeed
H.O.T.S.	Higher Order Thinking Skills
J.T.P.A.	Job Training Partnership Act
KMAD	Kids Make A Difference
P.A.L.	Peer Assistance Leadership (State Dept. of Alcohol & Drug Programs)
P.A.L.	Project Adolescent Literacy (Title VII)
P.A.S.S.	Progressive Academic and Survival Skills
PATH	Positive Action Toward Health
P.R.I.D.E.	Parks and Recreation Inspire Dignity and Esteem
R.O.P.	Regional Occupational Program
RSP	Resource Special Placement, up to 49% special education placement
S.D.A.I.E.	Specially Designed Academic Instruction In English
S.A.F.E.	Substance Abuse for Educators (Training)
SASI	A computer system used at year-round intermediate schools for student data
SB 65	Community Outreach Consultants working with at risk students
SDC	Special Day Class, greater than 49% special education placement
Shortstop	O. C. Educators'/Attorneys' diversionary programs for juvenile, first offenders
T.A.L.E.S.	Technology and Literature in English and Spanish
T.E.S.A.	Teacher Expectations Student Achievement
Title I	Programs designed to increase academic achievement for all students
Title IV	Drug Free and Safe Schools (formerly Drug, Alcohol, Tobacco Education)
Title VII	Transitional Bilingual Education Grants (also see CESTA)
T.U.P.E.	Tobacco Use Prevention Education
V.E.A.	Vocational Education Association

APPENDIX H-6
STUDENT SUCESS TEAMS
SUPPORT MATERIALS

DESCRIPTION OF SUGGESTED SEQUENCE TO SST SUPPORT FOR TEACHER/ADMINISTRATION/PARENTS/STUDENT

Review of Records/Consultation/Interventions/Referral Sequence

STEP ONE: Teacher and Parent Meeting

1. Review student's records (see flow chart features Letter B).
2. Discuss problem(s) (see flow chart features Letter C).
3. Discuss previously tried modifications by teacher.
4. Develop written action plan for modifications.
5. Establish a date to review program modifications.
6. If program modifications prove ineffective, teacher consults with SST Facilitator(s) or other support staff, and implements Step Two.

STEP TWO: Teacher and Site Administrator or Designee Meet

1. Review the student's portfolio, current work, etc.
2. Program modifications are attempted based on administrator/teacher conference and/or student observations, etc. (Forms 3, 7 and 8).
3. Parents are to be made aware of school's concern, if not previously involved (Form 2).
4. A date to review program modifications is established.
5. A referral is made to the Student Success Team (Form 4) if modifications prove ineffective.
6. Parents will be given the SST Parent Handbook and Form 10 in preparation for meeting.
7. Parents will be allowed to borrow SST video tape for viewing at home.
8. Student will be given Form 9 orally or written, as age appropriate, in preparation for the meeting.

STEP THREE: Student Success Team

1. One of the site administrators, SST facilitator, or designee will chair the Student Success Team at regularly scheduled meetings.
2. Teacher preparation is completed by teacher and student's name is placed on the agenda.
3. Appropriate participants are notified.
4. The referring teacher is responsible for seeing that the parent and student are contacted about attending the SST meeting and prepares them to participate (see STEP TWO, numbers 6 & 7).
5. Chairperson sends written notification to parent (Form 16).
6. The day before the SST meeting, parents are contacted to remind them of the meeting.
7. Team meets, discusses the case and makes recommendations.
   a. Further modifications can be implemented with assistance from consultants, e.g. psychologist, speech and language specialists, curriculum consultant, school and community resources (see resource directory), nurse, etc. OR
   b. Referral process for special education assessment is initiated, if appropriate, and only after regular education options have been exhausted. Pre-referral guidelines are checked to rule-out inappropriate referrals to MDA. A special education member is invited to the meeting, or has been consulted if referral is foreseen. Special education forms are not signed by SST personnel. This is the responsibility of special education personnel, unless it is otherwise agreed.
8. Chairperson will be responsible for preserving the Student Summary Sheet in an appropriate fashion in the purple file. The meeting will be recorded on KCASTS.
   a. Parents will receive a copy of minutes or summary letter/memo of meeting.
   b. A follow-up date will be set to evaluate the results of the actions taken.
   c. MDA files will be kept in a confidential file. If the student did not qualify for special education, place the MDA report inside the purple SST file folder in a designated confidential area. A purple sheet indicating that there is such a file will be placed in the student's CUM.

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STUDENT SUCCESS TEAM (SST) ROLES DEFINED

FACILITATOR/CHAIRPERSON

BEFORE MEETING
Coordinates logistics before and after meeting.

Notifies team members of meeting time, place and students that are scheduled.

Knows available resources and how to access them.

Assumes ultimate responsibility for group decisions.

DURING MEETING
Primary role is to facilitate, not to present information.

Stands in front of group.

Accountable for time; appoints timekeeper.

Helps recorder take accurate notes.

Checks for meaning/understanding.

Encourages input from all team members by asking "any additions? any questions?"

Keeps group focused on task.

Asks for specifics, not generalities.

Is positive, compliments group.

Is non-judgmental, encourages others to be non-judgmental.

Diffuses emotionally charged statements.

Sees that team prioritizes concerns and actions.

Helps team find win/win solutions for teachers, students, and parents.

Expects accountability for group decisions.
6/96

RECORDER

Listens carefully for the keywords and ideas to be recorded.

Writes the input of the Student Success Team Summary.

Organizes the information in the appropriate areas provided.

Doesn't change the meaning of what was said.

Asks for clarification, gets accurate information on the summary.

Captures basic ideas.

Makes corrections non-defensively.

Writes legibly and quickly.

Shortens words, abbreviates.

Isn't afraid to misspell.

Use colors as a visual aid.

Uses circles and arrows to connect related information.

TEAM MEMBER

Respects and listens to other individuals.

Does not cut other people off or put words in their mouths.

Questions any statements they feel is not accurate.

Helps recorder remain neutral and make sure ideas are being recorded accurately.

Uses facilitative behaviors as needed.

Focuses energy on content of the Student Summary. Helps group stay on task.

Serves as timekeeper or observer as needed.

Comes prepared with information on student.

Avoids side conversations.

Looks for similarities/discrepancies in the information.

Accounts for agreed upon actions.

Does not make commitments for people who are not present in the meeting.

Copies SST Summary on a small sheet, Form 5.

Provides Summary copy to parent and team members.

Scans meeting data for CASTS or passes the data on to the person responsible for entering data online.

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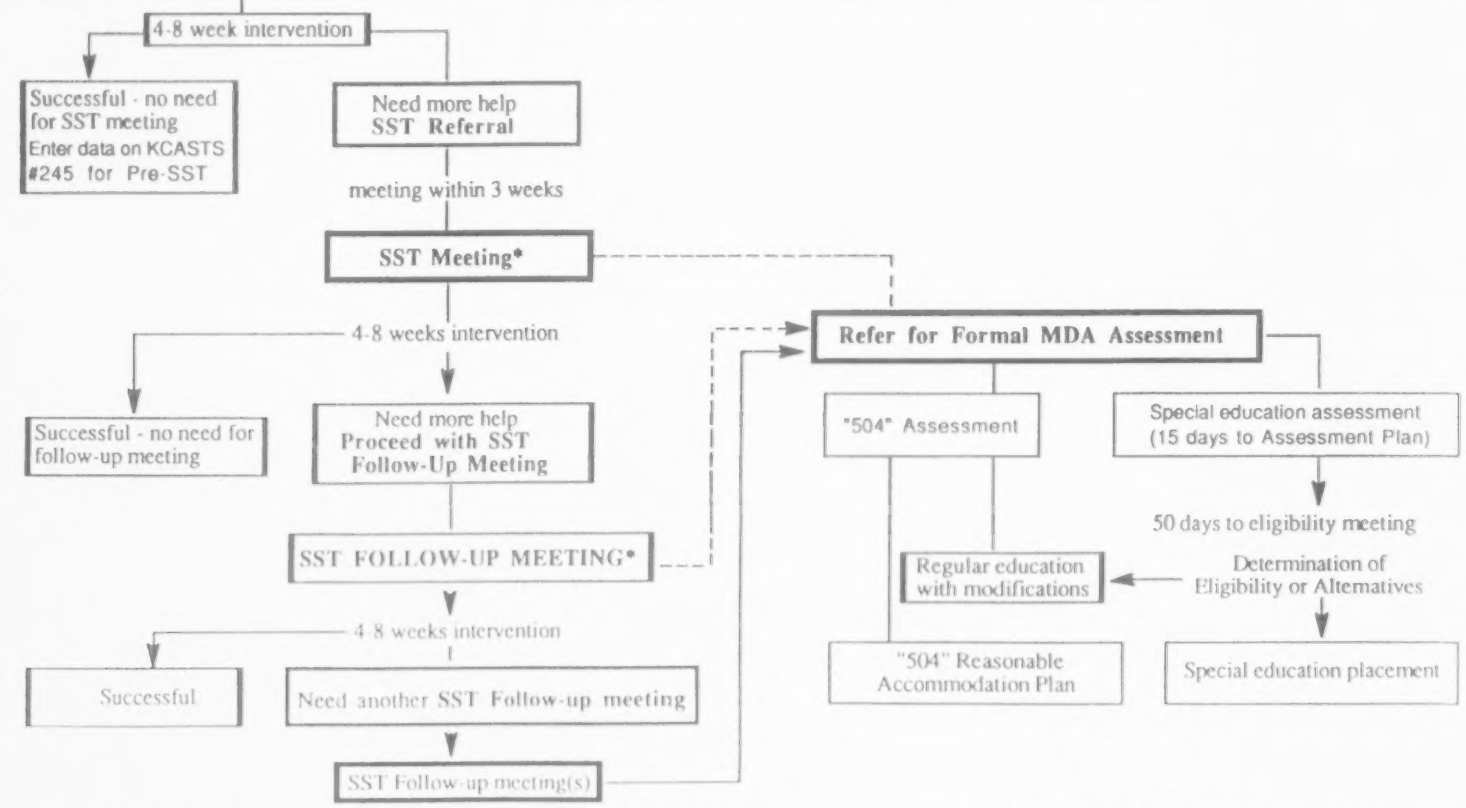
IDEAL SST PROCEDURES

Focus of Concern - Select Primary Focus: Medical Behavioral/Emotional Family Academic Language Development /Acquisition Cultural
(Student Management Plan)

Student History Review
Parent Interview (If health problems, request health screening)
Consultation with Resource Personnel
Informal SST Screening
•Teacher Assistance from Administrator /Designee



*Special education referral only in extreme cases. Regular education alternatives must be exhausted prior to special education referral. Check guidelines list.

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APPENDIX H-9
STUDENT SUCESS TEAMS
SUPPORT MATERIALS

Santa Ana Unified School District
Student Success Team (SST) Referral

I. General Information: (see cum and consult with parent) Cycle: A B C D Traditional (Circle one)

STUDENT _____ I.D. # _____ GRADE _____ SCHOOL _____ DOB _____ M F

ADDRESS _____ PHONE _____ PRIMARY LANGUAGE _____ ( ) LEP * ( ) FEP ( ) E O

* Recent Oral Language Level: _____

II. Educational History (Cum): Date of enrollment in SAUSD: _____ Years in U.S. _____ Redesignation Date: ____

Date of prior SST meeting(s): _____ Date of last parent conference: _____

Educational History Concerns: Attendance ( ) Punctuality ( ) Retention ( ) Transiency ( ) Behavior ( ) Academics ( )
(Attach Pre-Referral Form 3 with CASTS/SASI and other pertinent data.)
Additional Comments:

_____

III. Reason for Referral: Person Initiating Referral: _____ Date of Referral: _____

Give specific examples of academic concern(s) and attach work samples and/or provide description of behavior(s):

_____

_____

IV. Strengths: _____

_____

V. Identification of Strengths and Areas of Concern: Mark box with "+" or "-" only if applicable.

READING
Language of Instruction _____
Current Level _____
( ) decoding
( ) vocabulary
( ) comprehension
Attach or list test scores and date: _____
SABE, CTBS, OTHER- Specify

ORAL COMMUNICATION

	L1	L2
listening skills	( )	( )
language confusion	( )	( )
understanding	( )	( )
expression	( )	( )
sound production	( )	( )

other: _____

WRITTEN LANGUAGE
( ) Language of Instruction: _____
( ) grammar
( ) spelling
( ) expression
Attach or list test scores and date: _____
SABE, CTBS, OTHER-Specify

SOCIAL / EMOTIONAL/BEHAVIOR
( ) interaction with adults
( ) interaction with peers
( ) feelings about self
( ) other _____

MATH Current Level _____
( ) computation
( ) concepts
Attach or list test scores and date: _____
SABE, CTBS, OTHER-Specify

COPING SKILLS
( ) concentration / attention
( ) effort
( ) independence
( ) task completion

VI. Health Screenings: (see nurse/health records)
Vision Screening date: _____ Results: _____
Hearing Screening date: _____ Results: _____

MEDICAL (Describe)
_____
_____

MOTOR Mark box with "+" or "-" only if applicable
( ) gross motor
( ) fine motor

VII. Interventions to Date: Check previous interventions and specify language of instruction _____

( ) ELD/BRT Assistance
( ) Remedial Math
( ) Remedial Reading
( ) Placed on contract
( ) Referred to counselor
( ) SARB; PPC
( ) Community Worker Involvement
( ) Informal consult with: _____
( ) Changed seat
( ) Referred for tutoring
( ) Migrant Education
( ) Title I
( ) Sheltered strategies
( ) Small group instruction
( ) Other: _____

VIII. Additional information/comments:

_____

_____

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APPENDIX H-10
STUDENT SUCESS TEAMS
SUPPORT MATERIALS

SANTA ANA UNIFIED SCHOOL DISTRICT
STUDENT SUCCESS TEAM (SST) SUMMARY

Please Check Appropriate Box, If Section 504 ☐; If Board of Review ☐

GROUP MEMORY MINUTES (*RESUMEN DE REUNION EXITO ESTUDIANTIL*) DATE: (*FECHA*) _____

STUDENT (*ALUMNO/A*) I.D. # M/F SCHOOL (*ESCUELA*) GRADE (*GRADO*) TEACHER (*MAESTRO/A*) DOB

PHONE (*TELEFONO*) PARENTS NAME (*PADRES*) PRIMARY LANGUAGE (*LENGUA NATAL*) ( ) LEP ( ) FEP ( ) E O
Oral language level _____

STRENGTHS: (*POTENCIAS, APTITUDES, CONCENTRACIONES FUERTES*)

KNOWN INFORMATION/MODIFICATIONS: (*INFORMACION, MODIFICACIONES Y AYUDAS PREVIAS*)

School background

Family

Health

Communication/Language skills

PRIORITY CONCERNS: (*PRIORIDAD DE PREOCUPACIONES*)

QUESTIONS: (*PREGUNTAS*)

STRATEGIES: (*ESTRATEGIAS*)

STUDENT SUCCESS TEAM, or SECTION 504, or BOARD OF REVIEW

RECOMMENDED ACTION(S): (*ACCIONES RECOMENDADAS*)	PERSON(S): (*PERSONA/S*)	BY WHEN? (*¿PARA CUANDO?*)
1		
2		
3		
4		

ADMINISTRATOR (*ADMINISTRADOR*)	TEACHER (*MAESTRO/A*)
TEACHER (*MAESTRO/A*)	TEACHER (*MAESTRO/A*)
TEACHER (*MAESTRO/A*)	TEACHER (*MAESTRO/A*)
TEACHER (*MAESTRO/A*)	COUNSELOR (*CONSEJERO/A*)
PARENTS (*PADRES*)	STUDENT (*ALUMNO/A*)
INTERPRETER (*INTERPRETE*)	OTHER (*OTRO*)

FOLLOW-UP SST DATE (*FECHA DE SIGIENTE REUNION*)

DATE (*FECHA*)

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APPENDIX H-11
STUDENT SUCESS TEAMS
SUPPORT MATERIALS

SANTA ANA UNIFIED SCHOOL DISTRICT
STUDENT SUCCESS TEAM (SST) FOLLOW-UP SUMMARY

Please Check Appropriate Box, If Section 504 ☐; If Board of Review ☐

GROUP MEMORY MINUTES (*RESUMEN DE REUNION EXITO ESTUDIANTIL*) DATE: (*FECHA*) _____

STUDENT (*ALUMNO/A*) I.D. # M/F SCHOOL (*ESCUELA*) GRADE (*GRADO*) TEACHER (*MAESTRO/A*) DOB

PHONE (*TELEFONO*) PARENTS NAME (*PADRES*) PRIMARY LANGUAGE (*LENGUA NATAL*) ( ) LEP ( ) FEP E.O
Oral language level_____

PREVIOUS STRATEGIES/RECOMMENDATION:
(Estrategias/Recomendaciones previas:)

SPECIFIC OUTCOMES/ADDITIONAL INFORMATION/COMMENTS:
(Resultados específicos e información adicional y comentarios:)

NEW ACTIONS FOR ONGOING/NEW CONCERNS FROM THI S MEETING:
(Acciones nuevas/Sugerencias/Estrategias de esta reunión:)

STUDENT SUCCESS TEAM FOLLOW-UP, or SECTION 504, or BOARD OF REVIEW

RECOMMENDED ACTION(S): (*ACCIONES RECOMENDADAS*)	PERSON(S): (*PERSONA/S*)	BY WHEN? (*¿PARA CUANDO?*)
1.		
2.		
3.		
4.		

ADMINISTRATOR (*ADMINISTRADOR*)	TEACHER (*MAESTRO/A*)
TEACHER (*MAESTRO/A*)	TEACHER (*MAESTRO/A*)
TEACHER (*MAESTRO/A*)	TEACHER (*MAESTRO/A*)
TEACHER (*MAESTRO/A*)	COUNSELOR(*CONSEJERO/A*)
PARENTS (*PADRES*)	STUDENT (*ALUMNO/A*)
INTERPRETER (*INTERPRETE*)	OTHER (*OTRO*)

FOLLOW-UP SST DATE (*FECHA DE SIGIENTE REUNION*)

DATE (*FECHA*

Santa Ana Unified School District
Al Mijares, Ph.D., Superintendent

STUDENT SUCCESS TEAM (SST) NOTICE

DEAR PARENT,

Your son/daughter _____ has been referred to the
Child's Name

Student Success Team process. In order to discuss your child's progress and develop goals to assist him or her to be successful in school, we need your input at this meeting.

We have scheduled a meeting on _____ at _____ to
Date Time

discuss your child's strengths and areas of concern. If you are unable to attend, we will gladly re-schedule at your convenience. The attached form is to help you prepare. Please bring it with you to the meeting. It will not need to be turned in to the school.

If you have any questions please call me at _____

Sincerely,

_____

Outreach Consultant/Case Manager/SST Facilitator

6/96 SST Supplemental Materials Form 16

1601 East Chestnut Avenue, Santa Ana, CA 92701-6322. (714) 558-5501

APPENDIX H-13
STUDENT SUCESS TEAMS
SUPPORT MATERIALS

STUDENT SUCCESS TEAM (SST) OPINION SURVEY

DEAR PARENT:

We would like to know what you thought about the Student Success Team (SST) meeting(s) that you have attended. Would you please answer the questions below and return this form to us at your earliest convenience.

Your answers will help us to make our meetings better.

Thank You.

Student Success Team

Read the statements below and circle YES if you agree or NO if you disagree.

1. I knew what to expect and was prepared for the SST meeting. YES NO
2. My information was taken seriously by the team. YES NO
3. I think the actions we chose will help my student be more successful in school. YES NO
4. I would go to another SST meeting. YES NO

Please add any additional comments you may have_____

_____

_____

_____

APPENDIX H-14
STUDENT SUCESS TEAMS
SUPPORT MATERIALS

STUDENT SUCCESS TEAM (SST) OPINION SURVEY

DEAR STUDENT:

We would like to know what you thought about the Student Success Team meeting you have just attended. Would you please answer the questions below. Place it in the attached envelope and return it to your school office. You do not need to put your name on the questionnaire.

Your answers will help us to make our meetings better.

Thank you.

Student Success Team

Read the statements below and circle YES if you agree or NO if you disagree.

1. I knew what to expect and was prepared for the SST meeting. YES NO
2. My information was taken seriously by the team. YES NO
3. I think the actions we chose will help me do better in school. YES NO
4. I would go to another SST meeting. YES NO

Please add any additional comments you may have_____

_____

_____

APPENDIX I-1
POSITION STATEMENTS

COUNCIL FOR EXCEPTIONAL STUDENTS
POSITION STATEMENT ON DISCIPLINE
Adopted April 2, 1996

Schools today face a growing challenge in educating students who are dangerously violent or destructive. Schools have the responsibility to immediately change an educational setting for any student who behaves in this manner. Such students must be placed in educational programs designed to meet their learning, safety, and behavioral management needs.

Students receiving appropriate special education services will rarely become a danger to self and/or others. Students with disabilities are more likely to be victimized than their nondisabled peers and would benefit directly from safer schools.

CEC declares that violent and destructive behavior is unacceptable in our schools. However, in acknowledging such behavior occurs, CEC believes that schools have the responsibility to quickly and unilaterally move students who exhibit dangerously violent or destructive behavior to an alternative educational setting in which ongoing safety/behavioral goals and educational goals are addressed by fully qualified personnel. This setting must meet the school's dual responsibilities of providing free, appropriate, public education and a safe learning/working environment in an age - and culturally - appropriate manner. If the student has a disability, this setting must be selected by the student's individualized education program committee. If the alternative setting is contested, the current alternative setting will continue until the resolution of due process.

During the time a student with a disability is in an alternative educational setting, the local education agency must conduct an individualized education program committee meeting as soon as possible to determine (a) whether the student's violent behavior was an isolated incident and is not likely to happen again; (b) whether the environment in which the violent behavior occurred was appropriate given the student's age, cultural background, disability, related needs, and characteristics; (c) whether or not there are new characteristics within the student or environment necessitating further evaluation or a revision of the individualized education program; (d) whether the student's return to the previous educational setting with appropriate supports and related services would provide safety for self and others; and (e) the least restrictive environment for the student.

In determining an appropriate temporary placement for a student and when developing a new program if one is necessary, the individualized education program committee should consider a variety of possibilities such as (a) maintaining the current placement with additional support services; (b) providing in-school alternatives to suspension; (c) utilizing effective behavioral interventions, curricular modifications, and accommodation strategies, each designed to assist the student in controlling behavior; and (d) providing systematic education about appropriate behavior to all students in the educational environment. Schools should ensure that all general and special educators involved in implementing the student's individualized education program have opportunities for staff development to acquire the knowledge and skills necessary for effective implementation of the student's program. CEC also stresses the importance of the involvement and commitment of families and communities.

APPENDIX I-2
POSITION STATEMENTS

A Summary of Canadian Council for Exceptional Students (CEC) Belief Statement on Disruptive and Violent Behavior

CEC believes that all students, youth, and young adults with exceptionalities are entitled to free and appropriate education/services that foster independent living and productive engagement in the community. To achieve such outcomes, a rich variety of interventions, as well as educational and vocational program options and experiences must exist.

The student population with disruptive or violent behavior has been described as presenting the greatest challenge to the education profession in the nineties. CEC advocates for an effective response to the needs of these students.

Most students who have cognitive, emotional, social, or behavioral disabilities are effectively managed and taught through special education interventions and, as such, rarely exhibit the violent behavior that places them and those around them in danger of harm.

Occasionally, a student becomes aggressive/violent and a danger to self and/or others. In such instances, the rights of others within the public school to have a safe and effective learning environment must take precedence over the right of the disruptive student to remain in the current educational placement.

Students with Behavior Disorders

With reference to educating learners with behavior disorders, CEC believes:

- When circumstances necessitate assigning a student to an alternative educational setting, it must result from collaborative planning. Students with disabilities must continue to receive special education and related services in a setting that protects their safety and that of others in the public school environment.
- Early intervention is needed.
- Individual supports must be available for all students and youths.
- An extensive range of support services, particularly in mainstreamed settings, is critical.
- Students and their families or guardians should participate in program planning and provide input into decisions regarding the placement, curriculum option, and [illegible] document of students with behavior disorders.

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APPENDIX I-3
POSITION STATEMENTS

The Council of Administrators of Special Education and The Council for Students with Behavior Disorders (CCBD/CASE) jointly believe:

The majority of violent, aggressive or destructive students in American Schools are NOT students receiving special education, but, rather, students whose behavior may be incidental to a particular emotional crisis.

Most students who have cognitive, emotional, social or behavioral disabilities are effectively managed and taught through their special education interventions and, as such, rarely exhibit the violent behavior that places them and those around them in danger of harm.

Occasionally, a student receiving special education services will become aggressive/violent and become a danger to self and/or others. In those few instances where special education students do become of danger to themselves and others, the legal right of others within the public school to have a safe and effective learning environment must take precedence over the right of the special education student to remain in their current educational placement under the "stay put" provision within the IDEA.

Schools must have the right to remove these students to an alternative educational setting, identified by the student's IEP team, on a temporary basis and provide them with their special education services. LEA's must be able to implement quickly and unilaterally any of several alternative settings for a violent student. Students with disabilities must continue to receive special education and related services in a setting where their safety and that of others in the public school environment is protected. For students with disabilities, this unilateral placement should continue until the resolution of due process.

During the time a student is in the alternative educational setting the LEA must conduct a re-evaluation to determine:

a) Whether the student's violent behavior is an isolated incident and is not likely to happen again.
b) Whether the student's return to the previous educational placement with appropriate supports and related services will provide safety for self and others.
c) Whether or not there are new characteristics within the student identifiable through an evaluation which determines that the least restrictive environment for the student is no longer the regular school setting.
d) Using the information gathered through the emergency evaluation, the Individualized Education Planning Team shall reconvene to determine the Least Restrictive Environment for the student.
e) If the LRE is determined to be an alternative educational setting, then the LEA is responsible for implementing the appropriate placement as determined by the Individualized Education Planning Team.

Summary: CCBD and CASE both endorse the need for a school district to immediately and unilaterally remove any student who has a disability if he or she becomes violent, aggressive or destructive within a particular school. Such students must continue to receive their education in an alternative educational setting until an assessment has been accomplished and appropriate decisions are made around their long-term education program. Additionally, all students should have the opportunity to receive alternative educational services. (Developed and approved Spring of 1995).

APPENDIX I-4
Background Statement on Violence in Schools
The Council of Administrators of Special Education and
The Council for Students with Behavior Disorders (CCBD/CASE)

Public schools today face a growing challenge in educating students who are violent, aggressive, and destructive. The past several years have witnessed a dramatic increase in the amount and severity of aggressive and violent behavior seen in schools. The media, politicians and educators increasingly are pointing to this highly visible violence as a reason our schools are not performing at the level necessary. There is a strong outcry against this violence in our schools and different organizations have called for the automatic expulsion of all students found to be carrying a weapon or, in some other way, believe to be of danger to him/herself, other students, adults or property. This has led to students who are violent being immediately expelled long-term from school and, in some cases, losing their right to receive a public education.

Typically, when students become violent, dangerous, and/or aggressive in the school setting, it has been the responsibility of school personnel to remove the student immediately from the school to ensure that other students, adults, and/or property will not be harmed. This has always been viewed as a reasonable response supported by the general public. In fact, school personnel are required by state and federal laws to guarantee that public school environments remain a safe and comfortable place where students can learn.

Some students who are violent, aggressive or destructive in schools have documented disabilities and receive special education services under the federal protection of the Individuals with Disabilities Education Act (IDEA). In fact, it is often mistakenly assumed that a reason for the increased violence in public schools is directly related to the increased number of students with disabilities being educated within their local public school environment. Within the regulations implementing the IDEA there is a "stay put" provision. This provision requires that a student remain in his/her current placement if the parent(s) are in disagreement with a proposed change of placement. Also, the provision requires that the student "stay put" through the time necessary for due process and/or subsequent evaluations to determine the appropriate placement for the student. For these reasons, it has been difficult and legally precarious for school districts to remove a special education student immediately and legally from his/her current educational placement (school setting) as a result of violent behavior that may be related to or a result of the student's disability.

The "stay put" provision has caused confusion, considerable frustration and fostered controversy. Increasingly, parents have turned to this federal regulation in an effort to prevent schools from expelling their student for aggressive, violent or destructive behavior. Parents are filing for due process protections to invoke the IDEA's "stay put" provisions charging that school districts are "breaking the law" if they immediately remove a student for this legally constitutes a change in educational placement which cannot occur without parental permission.

Nationwide, this controversy has led to a growing resentment by school personnel regarding what many see as an inappropriate and unfair "dual" discipline system allowing students with disabilities to receive special treatment and protection when they commit a violent act on school property. Court cases such as Honig v. Doe have not adequately addressed the issue of how local school districts can appropriately respond to students with disabilities who become violent in the school setting. School districts need clarity within the federal IDEA regulations that will protect the rights of the student with a disability while also protecting the rights of everyone else who must function in the same school.

APPENDIX J

SUSPENSION AND EXPULSION TREND INFORMATION

A Report to the Kansas State Board of Education on Suspension/Expulsion of Regular and Special Education Students in Kansas

Executive Summary

As part of the efforts of the Kansas State Board of Education to address violence in Kansas schools, a survey was mailed on March 7, 1995, to all middle, junior high, and high school principals in Kansas. The purpose of this study was to determine whether acts leading to the suspension or expulsion of students with disabilities are different from those committed by other students. This issue was examined because of concern expressed by educators over limitations on suspending or expelling students who receive special education services.

The results of the study were surprising in that other findings were more significant than the one for which the study was undertaken. There were no educationally relevant differences between acts leading to the suspension or expulsion of students with disabilities and those committed by other students. More significant was the fact that students with disabilities are more than twice as likely to be suspended/expelled as other students. Equally alarming is the fact that the great majority (87%) of the students with disabilities suspended/expelled are either students with behavior disorders (BD) or those with learning disabilities (LD). Students with behavior disorders and students with learning disabilities comprise 1.0 percent and 4.5 percent respectively of the Kansas school population, but make up 22 percent (11% each) of those suspended/expelled. Students with behavior disorders have been identified specifically because they are unable to meet societal expectations with regard to behavior. Students with learning disabilities are recognized as frequently having difficulty understanding social situations and learning appropriate coping skills for dealing with frustrating or difficult situations. In view of the high percentage of these students suspended/expelled, the question arises as to whether their individual education plans (IEP) are effective in providing them with the skills they need to get along in society.

Another finding of significance was that those acts frequently mentioned as being of concern to teacher safety, guns in school and frequency of assaults on staff, represented only a very small part of those that result in disciplinary action in schools. In addition, there were no serious injuries associated with these incidents. Students identified as receiving special education were not any more likely to cause injuries than other students. Assaults on teachers made up only 2.2 percent (24 of 1,094 acts reported) of the incidents and guns only 1.8 percent (20 of the 1,094 acts reported). The majority of acts (59%) did not involve any "weapon." In those that did, over 90 percent of "weapons" were hands or feet. No injuries were reported in gun-related incidents and no serious injuries to school staff were reported as a result of assaults. Half the gun incidents reported were in rural

areas. Only 5 of the 20 gun incidents were reported in urban districts. The remainder were from small cities.

The great majority of the acts (92%) which led to suspensions/expulsions were what might be considered traditional offenses. The major ones were disobedience, altercations with other students, and disrespect. Others included smoking, skipping school, and petty thefts. In addition to what might be considered traditional offenses, 5.7 percent of the incidents involved drugs (37 of the 1,094 acts reported) or alcohol (25 of the 1,094 acts reported).

Significant differences were found with regard to gender and ethnic/racial differences. The great majority of those suspended were male (83%). Asians, and Native Americans were suspended/expelled half as often as other groups. Blacks and Hispanic groups were only slightly over represented among those suspended/expelled and that difference was not statistically significant. Whites were proportionally represented.

In sum, students with behavior disorders and learning disabilities are suspended at more than twice the rate of other students, but the acts they are suspended for are, for all practical purposes, no different from those of other students. Most acts for which students are suspended/expelled are what one might consider traditional offenses. Serious acts that are of concern to society today (guns and assaults on staff) make up only a small part of the discipline problems that schools deal with. Schools need to be credited with being vigilant in preventing serious problems from arising. Anecdotal reports indicate that school personnel are taking precautions to prevent weapons from being brought into their buildings and reacting swiftly when they are.

It would appear that a more positive approach to discipline problems of those receiving special education services is needed. Instead of putting these students out of school, it would be more helpful to examine their individual education programs (IEP) to determine how to help them deal with their acknowledged difficulty in recognizing and following societal norms. Schools are the only place society has an organized educational structure with the capability of providing these students with the skills to understand social situations and to make the appropriate behavioral choices. Making it easier to remove these students from school will not solve the problem; it only moves the problem outside the schools. Legal options do exist to deal with those few cases in which students present a real threat to school safety.

APPENDIX K

UNITED STATES DEPARTMENT OF EDUCATION
Office of Special Education and Rehabilitative Services
Initial Disciplinary Guidance Memo dated September 19, 1997

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

SEP 19 1997

Contact Persons		
Names	:	JoLeta Reynolds Rhonda Weiss
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OSEP 97-7

MEMORANDUM

TO : Chief State School Officers

FROM : Judith E. Heumann
Assistant Secretary
Office of Special Education and
Rehabilitative Services

Thomas Hehir
Director
Office of Special Education Programs

SUBJECT: Initial Disciplinary Guidance Related to Removal of Children with Disabilities from their Current Educational Placement for Ten School Days or Less

INTRODUCTION

The purpose of this memorandum is to provide initial guidance on the requirements of the Individuals with Disabilities Education Act Amendments of 1997 (IDEA '97) as they relate to the removal of children with disabilities from their current educational placement for ten school days or less. The Department has received numerous requests for guidance concerning the discipline provisions of IDEA '97. The Department plans to regulate in each of the areas where clarification is needed.

Four basic themes run throughout the statute concerning discipline:

(1) All children, including children with disabilities, deserve safe, well-disciplined schools and orderly learning environments;

(2) Teachers and school administrators should have the tools they need to assist them in preventing misconduct and discipline problems and to address these problems, if they arise;

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(3) There must be a balanced approach to the issue of discipline of children with disabilities that reflects the need for orderly and safe schools and the need to protect the right of children with disabilities to a free appropriate public education (FAPE); and

(4) Appropriately developed IEPs with well developed behavior intervention strategies decrease school discipline problems.

With regard to discipline for children with disabilities, IDEA '97:

- Brings together for the first time in the Statute the rules that apply to children with disabilities who are subject to disciplinary action and clarifies for school personnel, parents, students, and others how school disciplinary rules and the obligation to provide FAPE fit together by providing specificity about important issues such as whether educational services can cease for a disabled child; how manifestation determinations are made; what happens to a child with disabilities during parent appeals; and how to treat children not previously identified as disabled.

- Includes the regular education teacher of a child with a disability in the child's IEP meetings to help ensure that the child receives appropriate accommodations and supports within the regular education classroom, and gives the regular teacher an opportunity to better understand the child's needs and what will be necessary to meet those needs, thus decreasing the likelihood of disciplinary problems.

- Allows school personnel to move a student with disabilities to an interim alternative educational setting for up to 45 days, if that student has brought a weapon to school or a school function, or knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function.

- Gives school personnel the option of asking a hearing officer to move children with disabilities to an interim alternative educational setting for up to 45 days, if they are substantially likely to injure themselves or others in their current placement.

INITIAL GUIDANCE REGARDING REMOVAL OF CHILDREN WITH DISABILITIES FROM THEIR CURRENT PLACEMENT

We recognize that the statute is susceptible to a number of interpretations in some areas related to discipline, but the position enunciated below represents what we believe is the better reading of the statute. We are providing this information (in a question and answer format) to assist States and school districts in implementing IDEA '97 prior to publication of Department regulations. To the extent these questions and answers provide information not

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specifically addressed in the Statute, the information is being provided as non-binding/non regulatory guidance. We will be issuing proposed regulations in the near future that reflect the positions taken in this document.

QUESTION 1: Under IDEA, do public agencies have a responsibility, as part of the IEP process, to consider a child's behavior?

ANSWER: Yes. Section 614(d)(2)(B) requires the IEP team "in the case of a child whose behavior impedes his or her learning or that of others, [to] consider, when appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior." In addition, school districts should take prompt steps to address misconduct when it first appears. Such steps could, in many instances, eliminate the need to take more drastic measures. These measures also could be facilitated through the individualized education program (IEP) and placement processes required by IDEA. For example, when misconduct appears, a functional behavioral assessment could be conducted, and determinations could be made as to whether the student's current program is appropriate and whether the student could benefit from the provision of more specialized instructional and/or related services, such as counseling, psychological services, or social-work services in schools. In addition, training of the teacher in effective use of conflict management and/or behavior management strategies also could be extremely effective. In-service training for all personnel who work with the student, and, when appropriate, other students, also can be essential in ensuring the successful implementation of the above interventions.

QUESTION 2: Does the right to a free appropriate public education extend to children with disabilities who are suspended or expelled?

ANSWER: Yes. A free appropriate public education must be made available to all eligible children with disabilities, including children with disabilities who have been suspended or expelled from school. (Section 612(a)(1))

QUESTION 3: What is the meaning of the phrase "children with disabilities who have been suspended or expelled from school"?

ANSWER: The Department believes that the phrase means children with disabilities who have been removed from their current educational placement for more than ten school days in a given school year.

QUESTION 4: Must educational services be continued during the removal of a child with a disability from his or her educational placement for ten school days or less?

ANSWER: No. The Department does not believe that it was the intent of Congress to require that FAPE be provided when a child is removed for ten school days or less during a given school year. However, there is nothing in the IDEA '97 that would prevent the provision of FAPE during this time.

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QUESTION 5: Must there be a manifestation determination before a student with disabilities can be removed from his or her current education placement for a period of ten school days or less during a given school year?

ANSWER: No. The Department does not believe that the statute requires a manifestation determination prior to a removal for a period of ten school days or less in a given school year. However, if an action that involves the removal of a child with a disability from his or her current educational placement for more than ten school days in a given school year is contemplated, the Department believes that a manifestation determination would be required, and the manifestation determination must take place as soon as possible but in no case later than ten school days after the decision to take that action is made. (615(k)(4)(A))

QUESTION 6: Must a functional behavioral assessment be conducted prior to a removal of ten school days or less during a given school year?

ANSWER: No. The Department does not believe the statute requires a functional behavioral assessment, if a child with a disability is removed from his or her current educational placement for ten school days or less in a given school year, and no further disciplinary action is contemplated.

QUESTION 7: Are there any specific actions that a school district is required to take during a removal of a child with a disability from his or her educational placement for ten school days or less?

ANSWER: If no further removal is contemplated, the Department does not believe that other specific actions are required during this time period. However, school districts are strongly encouraged to review as soon as possible the circumstances that lead to the child's removal and consider whether the child was being provided services in accordance with the IEP and whether the behavior could be addressed through minor classroom or program adjustments, or whether the IEP team should be reconvened to address possible changes to the IEP.

QUESTION 8: Does IDEA continue to allow a school district to seek a court order to remove a student with a disability from school or otherwise change the student's placement? If so, under what circumstances?

ANSWER: Yes. IDEA continues to allow a school district to seek to obtain a court order to remove any student with a disability from school or to change the student's current educational placement if the school district believes that maintaining the student in the current educational placement is substantially likely to result in injury to the student or to others.

Honig v. Doe, 108 S. Ct. 592, 606 (1988).

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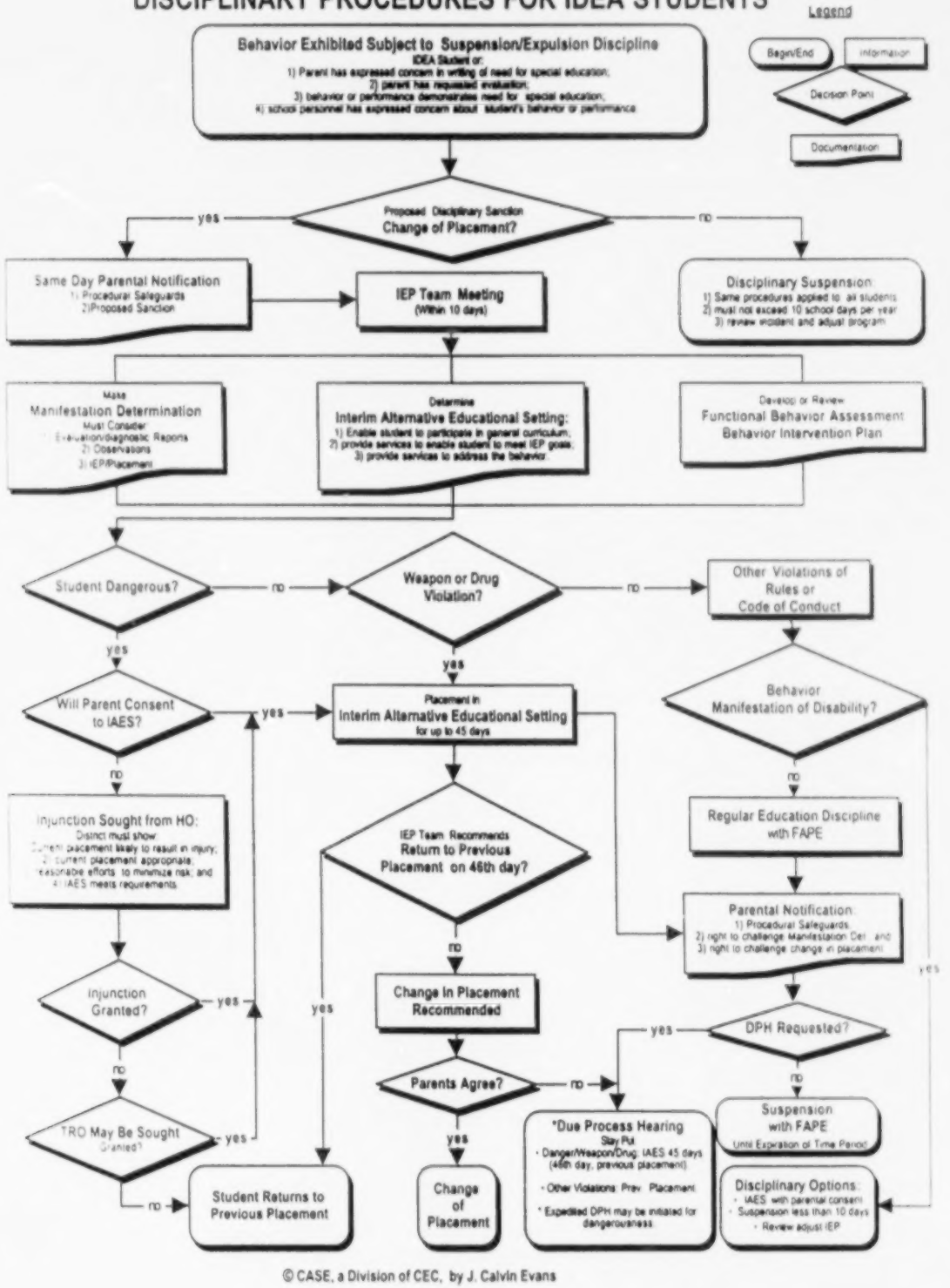
In addition, the new statute allows school authorities to ask a hearing officer to move children with disabilities to an interim alternative educational setting for up to 45 days if they are substantially likely to injure themselves or others in their current placement. The hearing officer may move the child to an alternative educational setting if the public agency demonstrates by evidence that is more than a preponderance of the evidence that maintaining the child in the child's current placement is substantially likely to result in injury to the child or others. The hearing officer must consider the appropriateness of the child's placement, whether the school district has made reasonable efforts to minimize the risk of harm in the child's current placement, including the use of supplementary aids and services, and determine that the interim alternative educational setting meets the requirements of section 615(k)(3) of the Act.

cc: State Directors of Special Education
RSA Regional Commissioners
Regional Resource Centers
Federal Resource Center
Special Interest Groups
Parent Training Centers
Independent Living Centers
Protection and Advocacy Agencies

APPENDIX L

IDEA DISCIPLINE PROCESS FLOWCHART AND NARRATIVE



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DISCIPLINARY PROCEDURES FOR IDEA STUDENTS
Flowchart Narrative

Behavior Exhibited Subject to Suspension/Expulsion Discipline

Two initial issues must be addressed before proceeding with the decisions that insure compliance with P.L. 105-17, The Civil Rights Act of 1974 and applicable standards from the body of case law when suspension resulting in a change of placement is selected as a disciplinary sanction:

1. **Does the behavior exhibited warrant the penalty of suspension/expulsion?**

   Factors to consider:

   - Consistency of the penalty with any applicable district table of penalties.
   - Consistency with penalties imposed on other students for the same or similar offenses.
   - Mitigating circumstances surrounding the offense.
   - The adequacy and effectiveness of alternative sanctions to deter such conduct.

2. **Is the student protected by IDEA?:**

   a. The student is an eligible student with a disability' pursuant to IDEA[1] categories if the student meets the state criteria in the following categories:

      mental retardation
      hearing impaired (including deafness)
      speech or language impaired
      visually impaired (including blindness)
      emotionally disturbed
      orthopedically impaired
      autistic
      traumatic brain injured
      other health impaired
      specific learning disability

   b. A student who has not been determined to be eligible for special education and related services...and who has engaged in behavior that violated any rule or code of conduct of the local educational agency...

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1 P.L. 105-17 Sec. 602.(3)(A)(i).

may assert any of the protections provided for in this part if the local educational agency had knowledge... that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred.[2]

Basis of knowledge—A local educational agency shall be deemed to have knowledge that a student is a student with a disability if[3]—

(i) The parent of the student has expressed concern in writing... that the student is in need of special education and related services.

Possible Sources of Documentation:

- Letter from parent stating need for special education.
- Independent Evaluation submitted by parents.

(ii) The behavior or performance of the student demonstrates the need for such services.

Possible Sources of Documentation:

- Discipline referrals.
- Prereferral documentation.
- Low academic profile (failing classes).
- Truancy Referrals

(iii) The parent of the student has requested an evaluation.

Possible Sources of Documentation:

- Referral for Evaluation Form completed by parent.
- Letter from parent requesting evaluation.

(iv) The teacher of the student, or other personnel of the [district], has expressed concern about the behavior or performance of the student to... [appropriate] personnel of the agency.

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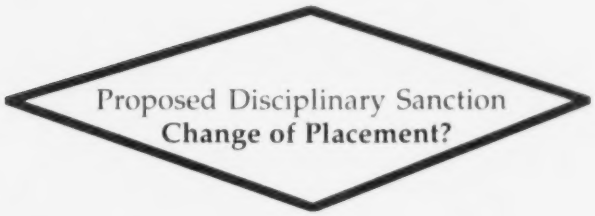
2 P.L. 105-17 Sec. 615 (k)(8)(A).
3 P.L. 105-17 Sec. 615 (k)(8)(B).

Possible Sources of Documentation:

- Discipline referrals.
- Team Meeting notes.
- Referrals to Guidance or Counseling.
- Prereferral documentation.



Principals and Assistant Principals are most often the administrative staff assigned by boards of education as responsible for maintaining school discipline. If, after analyzing the behavior of a student with disabilities, the administrator determines that similarly situated students without disabilities would be suspended for more than ten days, it is likely that the same period of suspension would be recommended for a student with disabilities, however, such disciplinary sanction constitutes a change in educational placement pursuant to IDEA for a student with disabilities and requires the due process procedures of IDEA to be followed **before** the suspension of more than ten days is imposed.

The IEP Team is the only entity that can change the placement of a student with disabilities. The role of the administrator is to recommend to the IEP Team a disciplinary sanction. Before the IEP Team meets, the school can suspend a student with disabilities or serve the student in an interim setting for ten days or less.

In determining whether a proposed disciplinary sanction constitutes a "change in educational placement" pursuant to IDEA the District[4] must determine whether the proposed change would substantially or materially alter the student's educational program.[5] In making such a determination, the following factors must be examined:

- Is the duration of proposed suspension more than ten days?[6]

  If the length of the suspension is more than ten days, the sanction is a change of placement.

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4 "District" is used here as the person(s) initially assessing the severity of the behavior and the likely disciplinary sanction. An administrative agent of the board of education is authorized to suspend any student for ≤ 10 days, however, a change of placement (pursuant to IDEA) can only be made by the student' IEP Team. Circumventing this procedural requirement is an abrogation of a Federal statutory right, subject to Section 1983 remedies.

5 Fisher, Letter to (Change in Placement) Office of Special Education Programs, July 6, 1994, 21 IDELR 992

6 P.L. 105-17 Sec. 615,(k)(1)(A)(i).

- Has the educational program set out in the student's IEP been revised?[7]

  If the proposed changes brought about by a disciplinary sanction substantially alter the student's IEP, then such sanction would constitute a change of placement.

- Is the new placement option at the same level on the continuum of alternative placements?[8]

  If the sanction results in movement up or down the continuum of least restrictive settings, then such sanction would be considered a change of placement.

COMPLIANCE TIP:

If a change of location is considered:

- Will the student be able to be educated with nondisabled students in the new location to the same extent as the current location?[9]

- Will the student have the same opportunities to participate in nonacademic and extracurricular activities?[10]

- Is the student able to access the proposed school in the same way (e.g. driving, walking, parent drives) the student accesses the current school? If not, transportation may be required.[11]

If this inquiry leads to the conclusion that a substantial or material change in the student's educational program is likely to occur, choose **YES** here, and proceed to **Same Day Parental Notification**.

If this inquiry leads to the conclusion that a substantial or material change in the student's educational program will not occur, choose **NO** here and proceed to administer the disciplinary suspension that would be utilized with a non-disabled student.

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7 *Id.*
8 *Id.*
9 *Id.*
10 *Id.*
11 Under Part B, the provision of FAPE to a child with a disability includes the provision of special education and related services (see 34 CFR § 300.8). "Related Services" are defined as "transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education. . . ." See 34 CFR § 300.16(a). The term "transportation" is further defined at 34 CFR § 300.16(b)(14) as "travel to and from school.

Disciplinary Suspension

Same procedures applied to all students:

School Boards, through their agents (administrative staff) have been given the authority and responsibility to maintain a safe learning environment.[12] Students with disabilities are subject to the same substantive and procedural due process rights as similarly situated non-disabled students before school officials limit access to educational programs for less than or equal to ten days for disciplinary reasons.

The Supreme Court established in *Goss v. Lopez*[13] specific due process procedures in connection with suspension of ten days or less to include:

1. Oral or written notice of the charges to the student and parents.

2. An explanation of the evidence the school authorities have and an opportunity for the student to present his or her explanation of the incident.

Suspensions of less than ten days do not constitute a change of placement within the meaning of P.L. 105-17 and due process beyond that afforded all students is not necessary. Therefore, the same procedures that are applied to students without disabilities may be utilized, as long as the suspension is under ten days.

Must not exceed ten school days per year:

OSEP has consistently held that suspensions are to be cumulative (not more than ten) in a given school year.

Review incident and adjust program:

A short term suspension provides the school with time to review the circumstances leading to the removal, determine whether minor program or IEP adjustments need to be made, or whether the IEP Team should meet to address possible program modifications.[14]

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12 *Goss v. Lopez*, 419 U.S. 565, 95 S. Ct. 729 (1975).
13 *Id.*
14 OSEP letter to Chief State School Officers, SUBJECT: Initial Disciplinary Guidance Related to Removal of Children with Disabilities from their Current Educational Placement for Ten School Days or Less, 9/19/97.

Same Day Parental Notification

Not later than the date on which the decision to take disciplinary action that may result in a change of placement is made, the parents shall be notified of that decision and of all procedural safeguards pursuant to IDEA.[15]

IEP Team Meeting

Decisions regarding the placement of a student with disabilities may not be made by any individual, rather, they must be made by the student's IEP Team. Within ten days of the date the decision is made to recommend a change of placement as a disciplinary sanction to the student's IEP Team, the IEP Team must be convened to make the following decisions relative to the recommendation:

1. **Manifestation Determination:**

   a. [The manifestation review] shall be conducted by the IEP Team and other qualified personnel.[16]

2. **Interim Alternative Educational Setting:**

   a. The [interim] alternative educational setting... shall be determined by the IEP Team.[17]

3. **Functional Behavior Assessment & Behavior Intervention Plan:**

   a. Either before or not later than 10 days after taking a disciplinary action [resulting in a change of placement];
      (i) if the local educational agency did not conduct a functional behavioral assessment and implement a behavioral intervention plan for such student before the behavior that resulted in the suspension... the agency shall convene an IEP meeting to develop an assessment plan to address that behavior; or

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15 P.L. 105-17 Sec. 615(k)(4)(A)(ii).
16 P.L. 105-17 Sec. 615(k)(4)(B).
17 P.L. 105-17 Sec. 615(k)(3)(A).

(ii) if the student already has a behavioral intervention plan, the IEP Team shall review the plan and modify it, as necessary, to address the behavior.[18]

COMPLIANCE TIP:

The term 'individualized education program team' or 'IEP Team' means a group of individuals composed of—

1. the parents of a student with a disability;
2. at least one regular education teacher of such student (if the student is, or may be, participating in the regular education environment);
3. at least one special education teacher, or where appropriate, at least one special education provider of such student;
4. a representative of the local educational agency who—
   a. is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students with disabilities;
   b. is knowledgeable about the general curriculum; and
   c. is knowledgeable about the availability of resources of the local educational agency;
5. an individual who can interpret the instructional implications of evaluation results;
6. at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate; and
7. whenever appropriate, the student with a disability.[19]

[18] P.L. 105-17 Sec. 615(k)(1)(B).
[19] P.L. 105-17 Sec. 614(d)(1)(B)

Make
Manifestation Determination

Components of the Process:

1. **Purpose:**

   The Manifestation Determination meeting is convened to determine whether a behavior arises from, is caused by, is a manifestation of, has a direct and substantial relationship to the student's disability. In order to make this determination, the IEP Team must compare the present behavior with previously documented information about the student's disability.

2. **The Meeting:**

   a. Must be held "... immediately, if possible, but in no case later than 10 school days after the date on which the decision to take that action is made..."[20]
   b. Must be an appropriately constituted IEP Team with prior notice given.[21]
   c. Decisions must be made on an individual case by case basis, not on generalizations of a disability or diagnosis.
   d. Team must consider, in terms of the behavior subject to disciplinary action, all relevant information, including-
      (I) evaluation and diagnostic results, including such results or other relevant information supplied by the parents of the student;
      (II) observations of the student; and
      (III) the student's IEP and placement.[22]

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20 P.L. 105-17 Sec. 615(k)(4)(A)(ii).
21 P.L. 105-17 Sec. 615(k)(4)(B).
22 P.L. 105-17 Sec. 615(k)(4)(C)(i)(I-III).

3. **Questions to be answered/Information to be reviewed:**

A. **Is the Program Appropriate?**[23] To determine that the student's IEP and placement were appropriate and that special education services supplementary aids and services and behavior intervention strategies were provided consistent with the IEP and placement, review:

- Disability- What is the student's disability?
- Referral- Was presenting behavior included in initial referral?
- Evaluation/TWR- Accurate, complete, additional information needed. Was presenting behavior evident in any of the evaluations that have been completed?
- Anecdotal records- Is there record of presenting behavior.
- The current IEP- Have services been provided?
- Are there IEP goals that deal with the current behavior?
- Educational history- Has behavior occurred in the past?
- Academic Performance- How is student performing in classes?

B. **Does the Student Have the Ability to Understand the Impact of the Behavior?**[24] To determine whether the student's disability impaired the ability of the student to understand the impact and consequences of the behavior the Team must be satisfied by the greater weight of credible evidence that as a result of the disability, at the time of the offense, the student lacked substantial capacity to appreciate the wrongfulness of their conduct or ability to conform to school rules.

Review:

- Has the student received information regarding the school's code of conduct?
- Is there a documented history of this behavior?
- Has student demonstrated the ability to follow rules?
- Interactions with the student where potential impact and consequences of this or similar behavior may have been expressed (e.g., in social groups. classroom discussions or direct interaction with the student).
- Interactions with the student where wrongfulness of the conduct or similar conduct was expressed (ability to tell right from wrong).

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23 P.L. 105-17 Sec. 615(k)(4)(C)(ii)(I).
24 P.L. 105-17 Sec. 615(k)(4)(C)(ii)(II).

C. **Does the Student Have the Ability to Control this Behavior?**[25]
To determine whether the student's disability impaired the ability of the student to **control** the behavior, the Team must be satisfied by the greater weight of credible evidence that as a result of the disability, at the time of the offense, the student lacked substantial capacity to control the behavior.

Review:

- Nature and severity of the disability, eligibility criteria, behavioral characteristics.
- Is behavior controlled for adults? Does student behave differently in the presence of peers?
- Patterns of behavior (aggression instead of isolated instance of punching, dishonesty rather than an isolated instance of theft).
- Was behavior result of other psycho/social event other than disability (e.g., illness, life changing event, substance abuse)?
- Context in which the behavior occurred.
- Antecedents to the behavior.
- Was behavior premeditated or impulsive?
- Relevant medical information (diagnosis, medications).

D. **Documentation:**

At the conclusion of the meeting, the following components must be documented:

- Behavior that prompted the meeting.
- Sources of information.
- Additional evaluations conducted.
- Statement addressing whether IEP and placement were appropriate and whether special education services supplementary aids and services and behavior intervention strategies were provided consistent with the IEP and placement.
- Statement addressing the extent to which the student's disability effected the ability to understand the impact and consequences of the behavior.
- Statement addressing the extent to which the student's disability impacted the ability to control the behavior.

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25 P.L. 105-17 Sec. 615(k)(4)(C)(ii)(III).

- Manifestation Statement (the behavior was/was not a manifestation of disability).
- Documentation of participation of IEP Team. Provision of ability to file dissenting opinion.

Determine
Interim Alternative Educational Setting

The goals of an interim alternative educational setting (IAES) are:

1. Provide educational services in social isolation.

2. To punish the student by limiting access to peers, social interaction, extracurricular activities and education.

According to P.L. 105-17, any interim alternative educational setting in which a student is placed... shall—

(i) be selected so as to enable the student to continue to participate in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the student's current IEP, that will enable the student to meet the goals set out in that IEP; and

(ii) include services and modifications designed to address the behavior [prompting the suspension] so that it does not recur.[26]

COMPLIANCE TIP:

Q: If a school suspends or expels a student with disabilities for behavior unrelated to those disabilities, must the school then provide the student with all the services specified in his or her IEP?

A: All areas of the IEP must be addressed, however, the nature and extent of services may be changed by the IEP Team in order to deliver services in an interim alternative setting.[27]

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[26] P.L. 105-17 Sec. 615(k)(3)(B)(i&ii).

[27] Memo to Rep. Robert Scott from the Congressional Research Service dated May 30, 1997, gives some guidance regarding requirements for IAES.

Develop or Review
Functional Behavior Assessment
Behavior Intervention Plan

Either before or not later than 10 days after taking a disciplinary action...[resulting in a change of placement]-

(i) if the local educational agency did not conduct a functional behavioral assessment and implement a behavioral intervention plan for such student before the behavior that resulted in the suspension... the agency shall convene an IEP meeting to develop an assessment plan to address that behavior; or

(ii) if the student already has a behavioral intervention plan, the IEP Team shall review the plan and modify it, as necessary, to address the behavior.[28]

After the IEP Meeting:

After the IEP Team has-

1) determined whether the behavior prompting suspension was a manifestation of the student's disability;

2) determined the nature and extent of the IAES; and

3) reviewed or developed a functional behavior assessment and intervention plan.....

..... the next question is: How long will the student remain in the IAES?

The answer to this question depends upon-

1) whether the student is dangerous (substantially likely to cause injury to self or others);

2) whether drugs or weapons were involved in the incident; or

3) the nature and severity of the "Other Violations of the Code of conduct".

Procedural due process differs for each of these three conditions.

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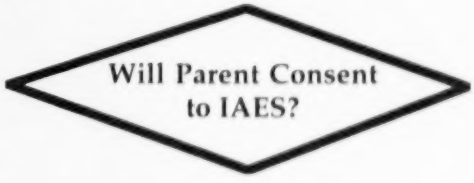
[28] P.L. 105-17 Sec. 615(k)(1)(B)(i&ii).

If the education agency believes the student to be dangerous (substantially likely to result in injury to self or others,[29] the student may be placed in an IAES for up to 45 days if 1) parent agrees; 2) ordered by a Hearing Officer: or 3) ordered by a Temporary Restraining Order (TRO).



If parent gives consent to such placement, proceed with IAES.

If parent disagrees, school officials may seek an injunction from a Hearing Officer.

Injunction Sought from Hearing Officer:

If parent disagrees, an injunction may be sought through a hearing officer to order such placement (contact the Director of Special Education).

District must show:

1. By substantial evidence that maintaining the current placement of such student is substantially likely to result in injury to the student or to others;
2. student's current placement is otherwise appropriate;
3. reasonable efforts to minimize the risk of harm in the student's current placement, including the use of supplementary aids and services; and
4. determines that the interim alternative educational setting meets the requirements of 105-17 Section 615(k)(3)(A).[30]

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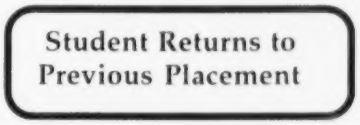
29 P.L. 105-17 Sec. 615(k)(2)(A).
30 P.L. 105-17 Sec. 615(k)(2)(A-D).

If the Hearing Officer grants an injunction, the student may be placed in an Interim Alternative Setting for 45 days.

If the Hearing Officer does not grant an injunction, a Temporary Restraining Order may be sought.

If an injunction is not granted by a hearing officer and the district continues to believe the student to be dangerous (substantially likely to result in injury to self or others) a Temporary Restraining Order (TRO) may be sought through a court of competent jurisdiction.[31] Should the court refuse to grant a TRO, the student would return to the previous placement.



Should attempts to place the student in an interim alternative setting fail at both the Hearing Officer and court level, the student will return to the placement before the removal, within ten days of the removal.

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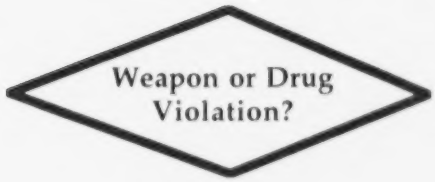
31 *Honig v. Doe* (484 U.S. 305)



School Officials may order a change of placement for up to 45 days for a student with a disability if:

1. The student carries a weapon to school or to a school function...; or

2. The student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance.[32]

Weapons:

The term "dangerous weapon" means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2 1/2 inches in length.[33]

Drugs:

Illegal drugs and controlled substances vary from state to state but generally include such components as:

1. All substances defined as illegal under federal and state code.
2. Alcoholic beverages.
3. All prescription medications in excess of a required individual dosage for an 8-hour period except for those medications required by elementary students which are held in the school office.
4. All over the counter medications in excess of a recommended individual dosage for an 8 hour period.
5. Any substance used with intent to do personal harm or injury or to disrupt the educational process or learning environment.

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32 P.L. 105-17 Sec. 615(k)(1)(A)(ii)(I&II).
33 USC Title 18, Pt.I, Ch.44, § 930(g)(2).

Placement in
Interim Alternative Educational Setting
for up to 45 days

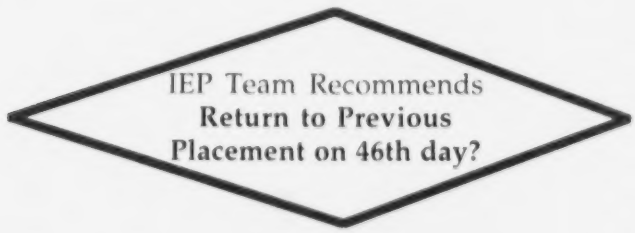
Students that carry a weapon to school or to a school function or knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance may be placed in an IAES for up to 45 days.

After placing a "Weapon/Drug" student in an IAES there are two issues that must be addressed:

- Parental Notification of 1) procedural safeguards; 2) right to challenge the Manifestation Determination; and 3) right to challenge the change in placement.

  If a Due Process Hearing is requested, Stay Put is the IAES for the first 45 days. On the 46th day, Stay Put becomes the student's previous placement.

- Where will the student's program be delivered after the 45 day IAES?



The student will return to the previous placement on the 46th day after assignment to an IAES unless another placement has been developed by the IEP Team with parental consent. If parent disagrees, the district may initiate a due process hearing.

COMPLIANCE TIP

Expedited Hearing:

P.L. 105-17 includes a provision for an "expedited hearing" in the event that school personnel determine that it is dangerous for a student to remain in their current placement during the pendency of a due process hearing.[34]

34 P.L. 105-17 Sec. 615(k)(1)(C)(i&ii).

Other Violations of Code of Conduct

For other violations of school rules or Code of Conduct that warrant suspension of similarly situated students without disabilities, the casual relationship between the student's disability and presenting behavior must be determined[35] within ten days after the decision to take the action is made.[36]

Refer to the Manifestation Determination made by the student's IEP Team to determine whether a casual relationship exists between the student's disability and the behavior under consideration.

If the IEP Team finds no relationship between the behavior and the disability, proceed to **Regular Education Discipline with FAPE.**

If the IEP Team finds a relationship between the behavior and the disability, proceed to **Disciplinary Options.**

Regular Education Discipline
with FAPE

If a causal relationship does not exist, then "...the relevant disciplinary procedures applicable to students without disabilities may be applied to the student in the same manner in which they would be applied to students without disabilities..."[37] except:

1. Parents must receive notification of their right to hearing to challenge the manifestation determination.[38]

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35 P.L. 105-17 Sec. 615(k)(4)(A).
36 P.L. 105-17 Sec. 615(k)(4)(A)(ii).
37 P.L. 105-17 Sec. 615(k)(5)(A)
38 P.L. 105-17 Sec. 615(k)(6)(A)(i).

2. Parents must receive notification of their procedural safeguards (including their right to challenge the change in placement).

3. Student must continue to receive FAPE during the period of suspension.[39]

If a Due Process Hearing is requested, Stay Put pending the outcome of the hearing is the current placement for students involved in other violations of rules or code of conduct, not the IAES.

Suspension with FAPE

If no due process hearing is requested the student is placed in the IAES previously determined by the IEP Team until the expiration of the determined time period of the suspension.

Disciplinary Options

If a casual relationship exists, then the **disciplinary options** available include:

1. IAES or change of placement with parental consent.
2. Suspension ≤ 10 days.
3. Review/adjust IEP in current placement.

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[39] P.L. 105-17 Sec. 612(a)(1).

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